

Washington State Register

July 21, 2004

OLYMPIA, WASHINGTON

ISSUE 04-14



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CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located 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

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The interest rate required by RCW 4.56.110(3) and 4.56.115 for the month of July 2004 is 3.430%.

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

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

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

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

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

2004-2005

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³	Expedited Rule Making 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 -					
04 - 15	Jun 23, 04	Jul 7, 04	Jul 21, 04	Aug 4, 04	Aug 24, 04	Sep 21, 04
04 - 16	Jul 7, 04	Jul 21, 04	Aug 4, 04	Aug 18, 04	Sep 7, 04	Oct 5, 04
04 - 17	Jul 21, 04	Aug 4, 04	Aug 18, 04	Sep 1, 04	Sep 21, 04	Oct 19, 04
04 - 18	Aug 4, 04	Aug 18, 04	Sep 1, 04	Sep 15, 04	Oct 5, 04	Nov 2, 04
04 - 19	Aug 25, 04	Sep 8, 04	Sep 22, 04	Oct 6, 04	Oct 26, 04	Nov 23, 04
04 - 20	Sep 8, 04	Sep 22, 04	Oct 6, 04	Oct 20, 04	Nov 9, 04	Dec 7, 04
04 - 21	Sep 22, 04	Oct 6, 04	Oct 20, 04	Nov 3, 04	Nov 23, 04	Dec 21, 04
04 - 22	Oct 6, 04	Oct 20, 04	Nov 3, 04	Nov 17, 04	Dec 7, 04	Jan 4, 05
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05 - 04	Jan 5, 05	Jan 19, 05	Feb 2, 05	Feb 16, 05	Mar 8, 05	Apr 5, 05
05 - 05	Jan 19, 05	Feb 2, 05	Feb 16, 05	Mar 2, 05	Mar 22, 05	Apr 19, 05
05 - 06	Feb 2, 05	Feb 16, 05	Mar 2, 05	Mar 16, 05	Apr 5, 05	May 3, 05
05 - 07	Feb 23, 05	Mar 9, 05	Mar 23, 05	Apr 6, 05	Apr 26, 05	May 24, 05
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05 - 23	Oct 26, 05	Nov 9, 05	Nov 23, 05	Dec 7, 05	Dec 27, 05	Jan 24, 06
05 - 24	Nov 9, 05	Nov 23, 05	Dec 7, 05	Dec 21, 05	Jan 10, 06	Feb 7, 06

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 rule making 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 04-14-015**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed June 25, 2004, 4:30 p.m.]

Subject of Possible Rule Making: Pull-tabs.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: We have received a petition for rule change from ZDI Gaming, Inc. requesting a change to pull-tabs rules.

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 Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; Neal Nunamaker, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3449; or Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466.

Meeting Dates and Locations: On August 13, 2004, at The Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662, (360) 254-3100; on September 10, 2004, at 3985 Bennett Drive, Bellingham, WA 98225, (360) 676-7700; or on October 15, 2004, at 505 Highway 2, Leavenworth, WA 98826, (509) 548-7000.

June 24, 2004

Susan Arland

Rules Coordinator

WSR 04-14-031**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF REVENUE**

[Filed June 29, 2004, 3:20 p.m.]

Subject of Possible Rule Making: WAC 458-20-110 Freight and delivery charges.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300 and 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is considering a revision to this rule to update the information to reflect changes in the law resulting from the implementation of provisions of the national streamlined sales and use tax agreement, and chapter 367, Laws of 2002, regarding treatment of delivery charges for purposes of use tax.

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

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, e-mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary discussion draft of a possible new or revised rule(s) is available upon

request. Written comments on and/or requests for copies of the draft may be directed to Gayle Carlson, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6126, e-mail GayleC@dor.wa.gov, fax (360) 664-0693.

Date and Location of Public Meeting: Capital Plaza Building, 4th Floor Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on August 17, 2004, at 1:30 p.m.

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

June 29, 2004

Alan R. Lynn

Rules Coordinator

Legislation and Policy Division

WSR 04-14-034**WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)**

[Filed June 29, 2004, 4:01 p.m.]

The Medical Assistance Administration would like to withdraw preproposal statement of inquiry, filed as WSR 03-16-020, filed on July 28, 2003.

Brian Lindgren, Manager

Rules and Policies Assistance Unit

WSR 04-14-045**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed June 29, 2004, 4:27 p.m.]

Subject of Possible Rule Making: Amend commercialization of wildlife 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: The Fish and Wildlife Commission has accepted a petition to amend falconry rules, and has instructed the department to initiate rule making on commercialization of wildlife with emphasis on raptors.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Fish and Wildlife Service. The department will coordinate state action with federal action on raptors.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dave Brittell, Wildlife Program, Assistant Director, 600 Capitol Way, Olympia, WA 98501-1091,

phone (360) 902-2504. Contact by August 19, 2004. Expected proposal filing on or after August 20, 2004.

June 29, 2004

Evan Jacoby
Rules Coordinator

WSR 04-14-053

**PREPROPOSAL STATEMENT OF INQUIRY
ENVIRONMENTAL HEARINGS OFFICE**

[Filed June 30, 2004, 11:42 a.m.]

Subject of Possible Rule Making: The adoption of permanent procedural rules for the Environmental and Land Use Hearings Board.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 43.21L RCW and RCW 34.05.360.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: During the 2003 session, the state legislature adopted ESSB 5776 creating the new Environmental and Land Use Hearings Board in the Environmental Hearings Office (EHO). The statute requires that the EHO adopt implementing rules. The rules would govern the procedural operation of the new board.

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 agency will rely on written and oral testimony provided during informal and formal comment periods and the open public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Eric Z. Lucas, Rules Coordinator, Environmental Hearings Office, P.O. Box 40903, Lacey, WA 98504-0903, call (360) 459-6327, fax (360) 438-7699, or send e-mail to EricL@eho.wa.gov.

June 30, 2004

Eric Z. Lucas
Administrative Appeals Judge
and Rules Coordinator

WSR 04-14-055

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY**

[Order 04-12—Filed June 30, 2004, 2:15 p.m.]

Subject of Possible Rule Making: Amending the definitions of "clean soils and dredged material" and "contaminated soils and dredged material," and the approach to managing soils containing contaminants, set forth in chapter 173-350 WAC, Solid waste handling standards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70.95 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Several stakeholders have expressed concern with the current approach to managing soils containing contaminants. The current rule provides a

very flexible system for managing soils and dredged material. Our intent is to provide greater certainty and a more consistent statewide regulatory system.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: There are no other state and federal agencies with regulatory authority for this subject.

Process for Developing New Rule: Agency study; and we will convene an External Advisory Committee (EAC) to help formulate approaches to defining and managing soils containing contaminants. The EAC will be comprised of stakeholders and other interested parties. Additionally, we will conduct public workshops on the proposed rule amendments in the latter stages of rule development.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mike Hibbler, Project Manager, Washington State Department of Ecology, 4601 North Monroe, Spokane, WA 99205, (509) 329-3466, mhib461@ecy.wa.gov; or Wayne Krafft, Technical Lead, Washington State Department of Ecology, 4601 North Monroe, Spokane, WA 99205, (509) 329-3438, akra461@ecy.wa.gov.

To be added to a notification mailing list please contact Brenda Pozega, Washington State Department of Ecology, 4601 North Monroe, Spokane, WA 99205, (509) 329-3548, bpoz461@ecy.wa.gov.

June 30, 2004
Cullen Stephenson
Program Manager

WSR 04-14-079

**PREPROPOSAL STATEMENT OF INQUIRY
PARKS AND RECREATION
COMMISSION**

[Filed July 6, 2004, 12:05 p.m.]

Subject of Possible Rule Making: The Washington State Parks and Recreation Commission will conduct a review of the provisions of chapter 352-32 WAC, Public use of state park areas, and may determine the need to establish new or amend existing administrative rules in this chapter. The commission's review will emphasize, but will not be limited to, those rules related to the current, revised and new services offered and the types of fees and permits collected.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 79A.05.030, 79A.05.035, 79A.05.055, and 79A.05.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission's interest in the economic viability and cost effectiveness of the state park system creates the need to continuously review and possibly revise rules in this chapter related to services, fees and the collection of fees. The review is intended to identify opportunities to adopt clear, viable and equitable rules for the health, safety, preservation and financial stability of Washington's state park system for the benefit of all citizens of the state. The commission's review may also provide for general housekeeping and minor changes in text.

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 Rita Cooper, Assistant Director, Administrative Services, Business Development, Washington State Parks, P.O. Box 42650, 7150 Cleanwater Lane, Olympia, WA 98504-2650, phone (360) 586-6606, fax (360) 753-1594, e-mail rita.cooper@parks.wa.gov.

July 6, 2004

Jim French, Chief
Policy and Financial Research

WSR 04-14-088

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed July 6, 2004, 2:11 p.m.]

Subject of Possible Rule Making: WAC 296-46B-900 Electrical work and permits and fees, 296-46B-905 Inspection, 296-46B-915 Civil penalty schedule, 296-46B-925 Electrical/telecommunications contractor's license, and 296-46B-970 Continuing education. General requirements - continuing education classes requirements for administrator, master electrician, and electrician renewal.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 19.28 RCW, Electricians and electrical installations.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of this rule making is to:

- Create a provisional electrical permit to allow electrical contractors some flexibility with permitting when doing service work. This provision will allow a simpler method for an electrical contractor to be compliant with the requirements for permitting electrical work when the scope of the work is unknown when the service worker is dispatched to the jobsite.
- Upon direction by the Electrical Board, this will clarify the definition of an independent power producer by placing the department's Electrical Board approved policy into rule.

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 state Electrical Board will be used to develop these rules. Other interested parties and the public may also participate by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Christine Swanson, Department of Labor and Industries, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, phone

(360) 902-6411, fax (360) 902-5292, e-mail copc235@lni.wa.gov.

July 6, 2004
Paul Trause
Director

WSR 04-14-097

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

[Filed July 6, 2004, 4:16 p.m.]

Subject of Possible Rule Making: WAC 388-462-0015 Medical programs for pregnant women and any other related WACs.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Revising what is considered acceptable verification for pregnancy and also rewriting the WAC for clarity.

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 Wendy Forslin, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1343, e-mail forslwc@dshs.wa.gov, fax (360) 664-0910, TTY 1-800-848-5429.

July 1, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-14-098

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

[Filed July 6, 2004, 4:17 p.m.]

Subject of Possible Rule Making: WAC 388-533-0400 Maternity care and newborn delivery, 388-533-0500 Planned home births—Pilot project, and 388-533-0600 Births in birthing centers.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.760, 74.09.770.

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

changes to clarify existing policy and will include the following:

- Removal of references to the medically indigent program;
- Removal of references to "pilot project" preceding planned home births and establish planned home births as an accepted program;
- Combining of the births in birthing centers and planned home births into one section;
- Eliminating reimbursement of prenatal assessment fee; and
- Clarifying language around antepartum care.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Health will be involved in the drafting and rule review process; and the Centers for Medicare and Medicaid Services will review and approve a state plan amendment.

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 Wendy L. Boedigheimer, Rules Program Manager, Medical Assistance Administration, Rules and Publications Section, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1306, fax (360) 586-9727, TTY 1-800-848-5429, e-mail boediwl@dshs.wa.gov.

July 1, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

are triggered. When the threshold values are triggered, the current rules require that all mixing/loading activities take place within an operational area containment as outlined in WAC 16-229-400. EPA has determined that pesticides containing kaolin clay are neither harmful to nontargeted organisms nor to the environment. Aquatic organisms are not likely to be affected because kaolin does not dissolve in water. The cost to the regulated industry of building operational area containment is substantial. If exempted, pesticides containing kaolin clay would no longer be counted for the purpose of establishing permanent mixing/loading site threshold values, thereby, eliminating the need for unnecessary and costly operational area containment.

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

Process for Developing New Rule: The Washington State Department of Agriculture staff, with suggestions from the regulated industry, will draft any necessary new rule language.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cliff Weed, Program Manager, Pesticide Management Division, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-2036, e-mail cweed@agr.wa.gov, fax (360) 902-2093.

July 7, 2004
Bob Arrington
Assistant Director

WSR 04-14-102

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed July 7, 2004, 9:50 a.m.]

Subject of Possible Rule Making: In response to a petition received from the Washington State Horticulture Association, the department is considering amending chapter 16-229 WAC, Secondary and operational area containment for bulk pesticides. Specifically, the department is considering exempting pesticides containing only kaolin clay as the active ingredient from the definition of "pesticide" in WAC 16-229-010. If exempted, pesticides containing only kaolin clay as the active ingredient would no longer be counted for the purpose of establishing permanent mixing/loading site threshold.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 17.21.030 (1)(a) and chapter 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Since the current rule was adopted, pesticides containing kaolin clay have been registered and are in widespread use on pears. Kaolin clay pesticides are used at high rates per acre. Because of these high rates, the threshold values for permanent/mixing loading sites

WSR 04-13-139
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed June 22, 2004, 3:13 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-07-062.

Title of Rule and Other Identifying Information: The DSHS Division of Child Support (DCS) is amending WAC 388-14A-1020 (definitions section), 388-14A-4100, and other related sections and adopts new rules as well. Amending WAC 388-14A-1020 What definitions apply to the rules regarding child support enforcement?, 388-14A-4040 DCS can serve some collection actions by electronic service, 388-14A-4100 How does ((can)) the division of child support ((make me)) enforce my obligation to provide health insurance for my children?, 388-14A-4110 If my support order requires me to provide health insurance for my children, what do I have to do?, 388-14A-4120 DCS ((serves a)) uses the national medical support notice ((of enrollment)) to enforce an obligation to provide health insurance coverage, and 388-14A-4130 What must ((an employer or union who receives a notice of enrollment do)) a plan administrator do after receiving a national medical support notice from the division of child support?; and new sections WAC 388-14A-4121 Can a Washington employer assume that every national medical support notice that the employer receives is from the division of child support?, 388-14A-4122 What kind of information is included in the national medical support notice?, 388-14A-4123 What can happen if the employer fails to comply with the terms of the national medical support notice?, 388-14A-4124 Who are the parties involved with the national medical support notice?, 388-14A-4125 What must an employer do after receiving a national medical support notice?, 388-14A-4126 What kind of help is available for an employer or plan administrator who has questions about the national medical support notice?, 388-14A-4135 What must the plan administrator do when the noncustodial parent has health insurance but the children are not included in the coverage?, 388-14A-4140 What must the plan administrator do when the noncustodial parent is eligible for health insurance but is not yet enrolled?, 388-14A-4143 What must the plan administrator do when the employer provides health insurance but the noncustodial parent is not yet eligible for coverage?, 388-14A-4145 What must the plan administrator do when the insurance plan in which the noncustodial parent is enrolled does not provide coverage which is accessible to the children?, 388-14A-4150 What must the plan administrator do when the noncustodial parent has more than one family?, 388-14A-4160 Are there any limits on the amount a noncustodial parent may be required to pay for health insurance premiums?, 388-14A-4165 What happens when a noncustodial parent does not earn enough to pay child support plus the health insurance premium?, 388-14A-4170 How long does a national medical support notice or other notice of enrollment remain in effect?, and 388-14A-4175 Is an employer obligated to notify the division of child support when insurance coverage for the children ends?

These rules describe how the DCS enforces medical child support obligations using a federal form called the national medical support notice (NMSN).

DCS has adopted emergency rules under WSR 04-07-057, effective March 22, 2004, so that we could start using the NMSN as soon as possible. We expect to file a second emergency rule in July 2004, to remain in effect until the rule-making order is filed on the regular rule-making process.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA, on August 10, 2004, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 11, 2004.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., August 10, 2004.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by August 6, 2004, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The federal government has created a new national medical support notice and has required state child support enforcement agencies to use the notice when enforcing medical support obligations. See above for a list of existing rules amended in this proposal.

Reasons Supporting Proposal: Implementing a federal requirement.

Statutory Authority for Adoption: RCW 74.08.090 and 74.20A.310.

Statute Being Implemented: RCW 26.18.170, 42 U.S.C. 666 (a)(19), Child Support Performance and Incentives Act of 1998, 45 C.F.R. 303.31 and 303.32.

Rule is necessary because of federal law, 42 U.S.C. 666 (a)(19), Child Support Performance and Incentives Act of 1998, 45 C.F.R. 303.31 and 303.32.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The Division of Child Support (DCS) is adopting or incorporating w/o material change federal statutes or regulations.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Koptur, DCS HQ, P.O. Box 9162, Olympia, WA 98507-9162, (360) 664-5065.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.061 and 19.85.025, this rule is exempt from the requirement to file a small business economic impact statement because we are adopting or incorporating w/o material change federal statutes or regulations.

A cost-benefit analysis is not required under RCW 34.05.328. The rule does meet the definition of a significant legislative rule but DSHS/DCS is exempt from preparing further analysis under RCW 34.05.328 (5)(b)(iii), rules that

adopt or incorporate federal statutes or rules without material change.

June 21, 2004
 Jim Schnellman
 for Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-1020 What definitions apply to the rules regarding child support enforcement? For purposes of this chapter, the following definitions apply:

"Absence of a court order" means that there is no court order setting a support obligation for the noncustodial parent (NCP), or specifically relieving the NCP of a support obligation, for a particular child.

"Absent parent" is a term used for a noncustodial parent.

"Accessible coverage" means health insurance coverage which provides primary care services to the children with reasonable effort by the custodian.

"Accrued debt" means past-due child support which has not been paid.

"Administrative order" means a determination, finding, decree or order for support issued under RCW 74.20A.055, 74.20A.056, or 74.20A.059 or by another state's agency under an administrative process, establishing the existence of a support obligation (including medical support) and ordering the payment of a set or determinable amount of money for current support and/or a support debt. Administrative orders include:

- (1) An order entered under chapter 34.05 RCW;
- (2) An agreed settlement or consent order entered under WAC 388-14A-3600; and
- (3) A support establishment notice which has become final by operation of law.

"Agency" means the Title IV-D provider of a state. In Washington, this is DCS.

"Agreed settlement" is an administrative order that reflects the agreement of the noncustodial parent, the custodial parent and the division of child support. An agreed settlement does not require the approval of an administrative law judge.

"Aid" or "public assistance" means cash assistance under the temporary assistance for needy families (TANF) program, the aid for families with dependent children (AFDC) program, federally-funded or state-funded foster care, and includes day care benefits and medical benefits provided to families as an alternative or supplement to TANF.

"Alternate recipient" means a child of the employee or retiree named within a support order as being entitled to coverage under an employer's group health plan.

"Applicant/custodian" means a person who applies for nonassistance support enforcement services on behalf of a child or children residing in their household.

"Applicant/recipient," "applicant," and "recipient" means a person who receives public assistance on behalf of a child or children residing in their household.

"Arrears" means the debt amount owed for a period of time before the current month.

"Assistance" means cash assistance under the state program funded under Title IV-A of the federal Social Security Act.

"Birth costs" means medical expenses incurred by the custodial parent or the state for the birth of a child.

"Conference board" means a method used by the division of child support for resolving complaints regarding DCS cases and for granting exceptional or extraordinary relief from debt.

"Consent order" means a support order that reflects the agreement of the noncustodial parent, the custodial parent and the division of child support. A consent order requires the approval of an administrative law judge.

"Court order" means a judgment, decree or order of a Washington state superior court, another state's court of comparable jurisdiction, or a tribal court.

"Current support" or "current and future support" means the amount of child support which is owed for each month.

"Custodial parent" means the person, whether a parent or not, with whom a dependent child resides the majority of the time period for which the division of child support seeks to establish or enforce a support obligation.

"Date the state assumes responsibility for the support of a dependent child on whose behalf support is sought" means the date that the TANF or AFDC program grant is effective. For purposes of this chapter, the state remains responsible for the support of a dependent child until public assistance terminates, or support enforcement services end, whichever occurs later.

"Delinquency" means failure to pay current child support when due.

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

"Dependent child" means a person:

(1) Seventeen years of age or younger who is not self-supporting, married, or a member of the United States armed forces;

(2) Eighteen years of age or older for whom a court order requires support payments past age eighteen;

(3) Eighteen years of age or older, but under nineteen years of age, for whom an administrative support order exists if the child is:

(a) A full-time student; and

(b) Reasonably expected to complete secondary school or the equivalent level of vocational or technical training before the end of the month in which the child turns nineteen.

"Disposable earnings" means the amount of earnings remaining after the deduction of amounts required by law to be withheld.

"Earnings" means compensation paid or payable for personal service. Earnings include:

(1) Wages or salary;

(2) Commissions and bonuses;

(3) Periodic payments under pension plans, retirement programs, and insurance policies of any type;

(4) Disability payments under Title 51 RCW;

(5) Unemployment compensation under RCW 50.40.020, 50.40.050 and Title 74 RCW;

(6) Gains from capital, labor, or a combination of the two; and

(7) The fair value of nonmonetary compensation received in exchange for personal services.

"Employee" means a person to whom an employer is paying, owes, or anticipates paying earnings in exchange for services performed for the employer.

"Employer" means any person or organization having an employment relationship with any person. This includes:

- (1) Partnerships and associations;
- (2) Trusts and estates;
- (3) Joint stock companies and insurance companies;
- (4) Domestic and foreign corporations;
- (5) The receiver or trustee in bankruptcy; and
- (6) The trustee or legal representative of a deceased person.

"Employment" means personal services of whatever nature, including service in interstate commerce, performed for earnings or under any contract for personal services. Such a contract may be written or oral, express or implied.

"Family" means the person or persons on whose behalf support is sought, which may include a custodial parent and one or more children, or a child or children in foster care placement. The family is sometimes called the assistance unit.

"Family member" means the caretaker relative, the child(ren), and any other person whose needs are considered in determining eligibility for assistance.

"Foreign order" means a court or administrative order entered by a tribunal other than one in the state of Washington.

"Foster care case" means a case referred to the Title IV-D agency by the Title IV-E agency, which is the state division of child and family services (DCFS).

"Fraud," for the purposes of vacating an agreed settlement or consent order, means:

- (1) The representation of the existence or the nonexistence of a fact;
- (2) The representation's materiality;
- (3) The representation's falsity;
- (4) The speaker's knowledge that the representation is false;
- (5) The speaker's intent that the representation should be acted on by the person to whom it is made;
- (6) Ignorance of the falsity on the part of the person to whom it is made;
- (7) The latter's:
 - (a) Reliance on the truth of the representation;
 - (b) Right to rely on it; and
 - (c) Subsequent damage.

"Full support enforcement services" means the entire range of services available in a Title IV-D case.

"Good cause" for the purposes of late hearing requests and petitions to vacate orders on default means a substantial reason or legal justification for delay, including but not limited to the grounds listed in civil rule 60. The time periods used in civil rule 60 apply to good cause determinations in this chapter.

"Head of household" means the parent or parents with whom the dependent child or children were residing at the time of placement in foster care.

"Health care costs":

(1) For the purpose of establishing support obligations under RCW 74.20A.055 and 74.20A.056, means medical, dental and optometrical expenses; and(;))

(2) For the purpose of enforcement action under chapters 26.23, 74.20 and 74.20A RCW, including the notice of support debt and the notice of support owed, means medical, dental and optometrical costs stated as a fixed dollar amount by a support order.

"Health insurance" means insurance coverage for all medical services related to an individual's general health and well being. These services include, but are not limited to: Medical/surgical (inpatient, outpatient, physician) care, medical equipment (crutches, wheel chairs, prosthesis, etc.), pharmacy products, optometric care, dental care, orthodontic care, preventive care, mental health care, and physical therapy.

"Hearing" means an adjudicative proceeding authorized by this chapter, or chapters 26.23, 74.20 and 74.20A RCW, conducted under chapter 388-02 WAC and chapter 34.05 RCW.

"I/Me" means the person asking the question which appears as the title of a rule.

"Income" includes:

- (1) All gains in real or personal property;
- (2) Net proceeds from the sale or exchange of real or personal property;
- (3) Earnings;
- (4) Interest and dividends;
- (5) Proceeds of insurance policies;
- (6) Other periodic entitlement to money from any source; and
- (7) Any other property subject to withholding for support under the laws of this state.

"Income withholding action" includes all withholding actions which DCS is authorized to take, and includes but is not limited to the following actions:

- (1) Asserting liens under RCW 74.20A.060;
- (2) Serving and enforcing liens under chapter 74.20A RCW;
- (3) Issuing orders to withhold and deliver under chapter 74.20A RCW;
- (4) Issuing notices of payroll deduction under chapter 26.23 RCW; and
- (5) Obtaining wage assignment orders under RCW 26.18.080.

"Locate" can mean efforts to obtain service of a support establishment notice in the manner prescribed by WAC 388-14A-3105.

"Medical support" means either or both:

- (1) Health care costs stated as a fixed dollar amount in a support order; and
- (2) Health insurance coverage for a dependent child.

"National Medical Support Notice" or "NMSN" is a federally-mandated form that DCS uses to enforce a health insurance support obligation; the NMSN is a notice of enrollment as described in RCW 26.18.170.

"Noncustodial parent" means the natural parent, adoptive parent, responsible stepparent or person who signed and filed an affidavit acknowledging paternity, from whom the state seeks support for a dependent child. Also called the NCP. A parent is considered to be an NCP when for the majority of the time during the period for which support is sought, the dependent child resided somewhere other than with that parent.

"Other ordinary expense" means an expense incurred by a parent which:

- (1) Directly benefits the dependent child; and
- (2) Relates to the parent's residential time or visitation with the child.

"Participant" means an employee or retiree who is eligible for coverage under an employer group health plan.

"Past support" means support arrears.

"Paternity testing" means blood testing or genetic tests of blood, tissue or bodily fluids. This is also called genetic testing.

"Payment services only" or **"PSO"** means a case on which the division of child support's activities are limited to recording and distributing child support payments, and maintaining case records. A PSO case is not a IV-D case.

"Permanently assigned arrearages" means those arrears which the state may collect and retain up to the amount of unreimbursed assistance.

"Physical custodian" means custodial parent (CP).

"Plan administrator" means the person or entity performs those duties specified under 29 USC 1002 (16)(A) for a health plan. If no plan administrator is specifically so designated by the plan's organizational documents, the plan's sponsor is the administrator of the plan. Sometimes an employer acts as its own plan administrator.

"Putative father" includes all men who may possibly be the father of the child or children on whose behalf the application for assistance or support enforcement services is made.

"Reasonable efforts to locate" means any of the following actions performed by the division of child support:

- (1) Mailing a support establishment notice to the noncustodial parent in the manner described in WAC 388-14A-3105;
- (2) Referral to a sheriff or other server of process, or to a locate service or department employee for locate activities;
- (3) Tracing activity such as:
 - (a) Checking local telephone directories and attempts by telephone or mail to contact the custodial parent, relatives of the noncustodial parent, past or present employers, or the post office;
 - (b) Contacting state agencies, unions, financial institutions or fraternal organizations;
 - (c) Searching periodically for identification information recorded by other state agencies, federal agencies, credit bureaus, or other record-keeping agencies or entities; or
 - (d) Maintaining a case in the division of child support's automated locate program, which is a continuous search process.
- (4) Referral to the state or federal parent locator service;

(5) Referral to the attorney general, prosecuting attorney, the IV-D agency of another state, or the Department of the Treasury for specific legal or collection action;

(6) Attempting to confirm the existence of and to obtain a copy of a paternity acknowledgment; or

(7) Conducting other actions reasonably calculated to produce information regarding the NCP's whereabouts.

"Required support obligation for the current month" means the amount set by a superior court order, tribal court order, or administrative order for support which is due in the month in question.

"Resident" means a person physically present in the state of Washington who intends to make their home in this state. A temporary absence from the state does not destroy residency once it is established.

"Residential care" means foster care, either state or federally funded.

"Residential parent" means the custodial parent (CP), or the person with whom the child resides that majority of the time.

"Responsible parent" is a term sometimes used for a noncustodial parent.

"Responsible stepparent" means a stepparent who has established an in loco parentis relationship with the dependent child.

"Retained support" means a debt owed to the division of child support by anyone other than a noncustodial parent.

"Satisfaction of judgment" means payment in full of a court-ordered support obligation, or a determination that such an obligation is no longer enforceable.

"Secretary" means the secretary of the department of social and health services or the secretary's designee.

"State" means a state or political subdivision, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a federally recognized Indian tribe or a foreign country.

"Superior court order" means a judgment, decree or order of a Washington state superior court, or of another state's court of comparable jurisdiction.

"Support debt" means support which was due under a support order but has not been paid. This includes:

- (1) Delinquent support;
- (2) A debt for the payment of expenses for the reasonable or necessary care, support and maintenance including health care costs, birth costs, child care costs, and special child rearing expenses of a dependent child or other person;
- (3) A debt under RCW 74.20A.100 or 74.20A.270; or
- (4) Accrued interest, fees, or penalties charged on a support debt, and attorney's fees and other litigation costs awarded in an action under Title IV-D to establish or enforce a support obligation.

"Support enforcement services" means all actions the Title IV-D agency is required to perform under Title IV-D of the Social Security Act and state law.

"Support establishment notice" means a notice and finding of financial responsibility under WAC 388-14A-3115, a notice and finding of parental responsibility under WAC 388-14A-3120, or a notice and finding of medical responsibility under WAC 388-14A-3125.

"**Support money**" means money paid to satisfy a support obligation, whether it is called child support, spousal support, alimony, maintenance, medical support, or birth costs.

"**Support obligation**" means the obligation to provide for the necessary care, support and maintenance of a dependent child or other person as required by law, including health insurance coverage, health care costs, birth costs, and child care or special child rearing expenses.

"**Temporarily assigned arrearages**" means those arrears which accrue prior to the family receiving assistance, for assistance applications dated on or after October 1, 1997.

"**Title IV-A**" means Title IV-A of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 USC.

"**Title IV-A agency**" means the part of the department of social and health services which carries out the state's responsibilities under the temporary assistance for needy families (TANF) program (and the aid for dependent children (AFDC) program when it existed).

"**Title IV-D**" means Title IV-D of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 USC.

"**Title IV-D agency**" or "**IV-D agency**" means the division of child support, which is the agency responsible for carrying out the Title IV-D plan in the state of Washington. Also refers to the Washington state support registry (WSSR).

"**Title IV-D case**" is a case in which the division of child support provides services which qualifies for funding under the Title IV-D plan.

"**Title IV-D plan**" means the plan established under the conditions of Title IV-D and approved by the secretary, Department of Health and Human Services.

"**Title IV-E**" means Title IV-E of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 U.S.C.

"**Title IV-E case**" means a foster care case.

"**Tribunal**" means a state court, tribal court, administrative agency, or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine parentage.

"**Unreimbursed assistance**" means the cumulative amount of assistance which was paid to the family and which has not been reimbursed by assigned support collections.

"**We**" means the division of child support, part of the department of social and health services of the state of Washington.

"**WSSR**" is the Washington state support registry.

"**You**" means the reader of the rules, a member of the public, or a recipient of support enforcement services.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-4040 DCS can serve some collection actions by electronic service. (1) An employer, or any other person, firm, corporation or political subdivision, or any department of the state or federal government may agree with the division of child support (DCS) to accept electronic data transmission (EDT) as service of the following documents:

(a) Notice of payroll deduction under RCW 26.23.060;

(b) Order to withhold and deliver under RCW 74.20A.080;

(c) Assignment of earnings under RCW 74.20A.240;

(d) Notice of enrollment or National Medical Support Notice (NMSN) under RCW 26.18.170 (2)(a)(iv);

(e) Releases of any of these collection documents; and

((e)) (f) Amendments in the amount to be withheld under any of these collection documents.

(2) Agreements for service by EDT must be in writing. The employer, person, firm, corporation, political subdivision or department must agree to accept EDT as:

(a) Personal service of the withholding documents; and

(b) A written document for the purposes of chapters 26.23 and 74.20A RCW.

(3) DCS provides the party accepting EDT with copies of the current forms listed in subsection (2) above, as well as any updates to those forms. If DCS fails to provide an updated form, this does not excuse noncompliance with withholding documents served under the EDT agreement.

(4) An agreement to accept service by EDT does not alter the rights, duties and responsibilities related to income withholding action under chapters 26.23, 74.20 or 74.20A.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-4100 ((Can)) How does the division of child support ((make me)) enforce my obligation to provide health insurance for my children? (1) If a child support order requires the noncustodial parent (NCP) to provide health insurance for the children, the division of child support (DCS) attempts to enforce that requirement according to the terms of the order. The following subsections describe the different types of premium limitations that could apply to a support order.

(2) ~~((Unless the support order specifies differently, an NCP is obligated to provide health insurance for dependent children if coverage is:~~

(a) ~~Available or becomes available through the NCP's employment or union; and~~

(b) ~~Available at a cost of not greater than twenty-five per cent of the NCP's basic support obligation))~~ When DCS is enforcing a support order which contains a specific dollar limit for the cost of health insurance premiums or provides for coverage which is available at no cost to the NCP, DCS does not require the NCP to provide health insurance if coverage is not available within the limitations of the order.

(3) When DCS is enforcing a support order entered on or after May 13, 1989, unless the support order specifies differently, the NCP must provide health insurance for dependent children if coverage is:

(a) Available or becomes available through the NCP's employment or union; and

(b) Available at a cost of not greater than twenty-five per cent of the NCP's basic support obligation.

(4) When DCS is enforcing a support order entered prior to May 13, 1989, unless the support order specifies differently, the NCP must provide health insurance for dependent children if coverage is available or becomes available through the NCP's employment or union:

PROPOSED

(a) For a maximum of twenty-five dollars per month, if the order specifies that the NCP must provide coverage only if it is available at a reasonable cost; or

(b) For any premium amount whatsoever, if the order does not specify reasonable cost.

(5) DCS serves a notice of intent to enforce a health insurance obligation if the support order:

(a) Requires the NCP either to provide health insurance coverage or prove that coverage is not available; and

(b) Does not inform the NCP that failure to provide health insurance or prove it is not available may result in enforcement of the order without notice to the NCP.

((4)) (6) DCS serves the notice of intent to enforce a health insurance obligation on the NCP by certified mail, return receipt requested, or by personal service.

((5)) (7) The notice advises the NCP that the NCP must submit proof of coverage, proof that coverage is not available, or proof that the NCP has applied for coverage, within twenty days of the date(=

(a)) of service of the notice(=

(b) When health insurance coverage becomes available through the NCP's employer or union)).

(8) The notice advises the NCP that, if health insurance is not yet available, the NCP must immediately notify DCS if health insurance coverage becomes available through the NCP's employer or union.

(9) When DCS enforces an NCP's health insurance obligation, such enforcement may include asking the employer and the plan administrator to enroll the NCP in a health insurance plan available through the employer.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-4110 If my support order requires me to provide health insurance for my children, what do I have to do? (1) Once ~~((an administrative))~~ a support order is entered requiring health insurance, the noncustodial parent (NCP) must take the following actions within twenty days:

(a) Provide health insurance coverage; and

(b) Provide proof of coverage to the division of child support (DCS), such as:

(i) The name of the insurer providing the health insurance coverage;

(ii) The names of the beneficiaries covered;

(iii) The policy number;

(iv) That coverage is current; and

(v) The name and address of the NCP's employer.

(2) If health insurance coverage ~~((is not immediately))~~ that is accessible to the children named in the order is available, the NCP must:

(a) Provide for coverage ((during the next)) for the children without waiting for an open enrollment period, as provided under RCW 48.01.235 (4)(a); and ((then))

(b) Submit proof of coverage as outlined in subsection (1)(b) above.

(3) If health insurance is not immediately available to the NCP, as soon as health insurance becomes available, the NCP must:

(a) Provide for coverage for the children named in the order; and

(b) Submit proof of coverage as outlined in subsection (1)(b) above.

(4) Medical assistance provided by the department under chapter 74.09 RCW does not substitute for ~~((medical))~~ health insurance.

((4)) (5) A child's enrollment in Indian health services satisfies the requirements of this section.

(6) See WAC 388-14A-4165 for a description of what happens when the combined total of NCP's current support obligation, arrears payment and health insurance premiums to be withheld by the employer exceeds the fifty per cent limitation for withholding.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-4120 DCS ~~((serves a))~~ uses the National Medical Support Notice ~~((of enrollment))~~ to enforce an obligation to provide health insurance coverage. (1) The division of child support (DCS) ~~((serves))~~ uses a notice of enrollment called the National Medical Support Notice (NMSN) to enforce a noncustodial parent's obligation to provide health insurance coverage under chapter 26.18 RCW.

(2) DCS ~~((serves the notice of enrollment on))~~ sends the NMSN to the ((NCP's)) noncustodial parent's employer ((or union)) in one of the following ways:

(a) In the same manner as a summons in a civil action, ((or))

(b) By certified mail, return receipt requested,

(c) By regular mail, or

(d) By electronic means as provided in WAC 388-14A-4040 (1)(d).

(3) DCS ~~((serves the notice of enrollment))~~ sends the NMSN without notice to the noncustodial parent (NCP) when:

(a) A court or administrative order requires the NCP to provide insurance coverage for a dependent child;

(b) The NCP fails to provide health insurance (either by not covering the child or by letting the coverage lapse) or fails to provide proof of coverage;

(c) The requirements of RCW 26.23.050 are met; and

(d) DCS has reason to believe that coverage is available through the NCP's employer or union.

~~((4)) The notice of enrollment advises the employer or union that:~~

~~((a)) The NCP is required to provide health insurance coverage for the children named in the notice;~~

~~((b)) The employer or union is required to enroll the children in a health insurance plan offered by the employer or union if insurance the children can use is or will become available as provided in subsection (d) below;~~

~~((c)) The employer or union must answer the notice of enrollment by completing the answer form and returning it to DCS within thirty five days;~~

~~((d)) The answer must confirm that the employer or union:~~

~~((i)) Has enrolled the children in a health insurance plan which provides accessible coverage;~~

~~(ii) Will enroll the children in a health insurance plan providing accessible coverage during the next open enrollment period; or~~

~~(iii) Cannot enroll the children in a plan which provides accessible coverage, stating the specific reasons why coverage cannot be provided.~~

~~(e) The employer or union must provide:~~

~~(i) Information about the health insurance plan and policy as requested in the notice; and~~

~~(ii) Any necessary claim forms or membership cards as soon as they are available.~~

~~(f) The employer or union must withhold premiums from the NCP's net earnings if the NCP is required to pay part or all of the premiums for coverage under the health insurance plan.~~

~~(g) Noncompliance with the notice of enrollment subjects the employer or union to a fine of up to one thousand dollars under RCW 74.20A.270.~~

~~(5) DCS may take action under RCW 74.20A.270 to impose fines if the employer or union fails to comply with the terms of the notice of enrollment. For each failure to comply, DCS may assess a fine of:~~

~~(a) Two hundred dollars for the first month in which the employer or union fails to comply;~~

~~(b) Three hundred dollars for the second month of non-compliance; and~~

~~(c) Five hundred dollars for the third month of non-compliance.~~

~~(d) The maximum fine based on a single notice of enrollment is one thousand dollars.)~~

NEW SECTION

WAC 388-14A-4121 Can a Washington employer assume that every National Medical Support Notice that the employer receives is from the division of child support? (1) The National Medical Support Notice (NMSN) is a federally-mandated form which is used by child support enforcement agencies all over the United States, not just the division of child support (DCS).

(2) Each NMSN form contains information advising the employer which child support enforcement agency sent the NMSN.

NEW SECTION

WAC 388-14A-4122 What kind of information is included in the National Medical Support Notice? The National Medical Support Notice (NMSN) and its cover letter advise the noncustodial parent's employer and the plan administrator that:

(1) The noncustodial parent (NCP) is required to provide health insurance coverage for the children named in the notice;

(2) Information regarding the custodial parent and children, especially address information, is confidential and may not be released to anyone, including the NCP;

(3) Within twenty business days of the date on the notice, the employer must either:

(a) Respond to the NMSN by completing the response form and returning it to DCS; or

(b) Forward Part B of the NMSN to the plan administrator.

(4) The employer or plan administrator is required to enroll the children in a health insurance plan offered by the employer or the union if insurance the children can use is or will become available as provided in WAC 388-14A-4130;

(5) The employer or plan administrator must provide:

(a) Information about the health insurance plan and policy as requested in the notice; and

(b) Any necessary claim forms or membership cards as soon as they are available.

(6) The employer or union must withhold premiums from the NCP's net earnings if the NCP is required to pay part or all of the premiums for coverage under the health insurance plan.

(7) Noncompliance with the NMSN subjects the employer or union to a fine of up to one thousand dollars under RCW 74.20A.350. See WAC 388-14A-4123 for a description of noncompliance penalties.

NEW SECTION

WAC 388-14A-4123 What can happen if the employer fails to comply with the terms of the National Medical Support Notice? (1) If an employer fails to comply with the terms of a National Medical Support Notice (NMSN) sent by the division of child support (DCS), the employer may be liable for a fine of up to one thousand dollars under RCW 74.20A.350.

(2) DCS may take action under RCW 74.20A.350 to impose fines if the employer fails to comply with the terms of the NMSN. For each failure to comply, DCS may assess a fine of:

(a) Two hundred dollars for the first month in which the employer or union fails to comply;

(b) Three hundred dollars for the second month of non-compliance; and

(c) Five hundred dollars for the third month of non-compliance.

(d) The maximum fine based on a single notice of enrollment is one thousand dollars.

NEW SECTION

WAC 388-14A-4124 Who are the parties involved with the National Medical Support Notice? (1) The National Medical Support Notice (NMSN) is a federally-mandated form used by child support enforcement agencies to enforce a noncustodial parent's medical support obligation. The division of child support (DCS) uses the NMSN as provided in WAC 388-14A-4120.

(2) DCS sends an NMSN when there is a support order requiring the noncustodial parent (NCP) to provide health insurance coverage for the children.

(3) DCS sends the NMSN to the NCP's employer.

(4) If the employer provides health insurance coverage, the employer forwards the NMSN to the appropriate plan administrator.

(5) The plan administrator is the entity which handles the ministerial functions for the group health plan maintained by

the employer or a group health plan to which the employer contributes.

(6) In some cases, the employer performs the duties of the plan administrator.

(7) In some cases, the NCP's union either acts as or contracts with the plan administrator.

(8) The plan administrator sends coverage information to both DCS and the custodial parent (CP).

NEW SECTION

WAC 388-14A-4125 What must an employer do after receiving a National Medical Support Notice? (1) Within twenty business days after the date on the National Medical Support Notice (NMSN), the employer must either send Part B to the plan administrator or send the employer response to the division of child support (DCS).

(2) The employer need take no action beyond responding to the NMSN if:

(a) The employer does not maintain or contribute to plans providing dependent or family health care coverage;

(b) The employee is among a class of employees (for example, part-time or nonunion) that are not eligible for family health coverage under any group health plan maintained by the employer or to which the employer contributes; or

(c) The employee either is no longer, or never has been, employed by this employer.

(3) If subsection (2) of this section does not apply, the employer must respond to the NMSN and must:

(a) Forward Part B of the NMSN to the plan administrator of each group health plan identified by the employer to enroll the noncustodial parent's eligible children (see WAC 388-14A-4130 for what the plan administrator must do after receiving an NMSN); and

(b) When notified by the plan administrator that the children are enrolled:

(i) Withhold any employee contributions required for health insurance premiums and transfer those premiums to the appropriate plan; or

(ii) Notify DCS that enrollment cannot be completed because the noncustodial parent's net earnings are not high enough to allow withholding of child support and health insurance premiums; in this situation, the employer must notify DCS of the amount of the premium required to cover the children.

(c) When notified by the plan administrator that the noncustodial parent NCP is subject to a waiting period, notify the plan administrator when the NCP is eligible to enroll in the plan, and that the NMSN requires the enrollment of the children named in the NMSN.

NEW SECTION

WAC 388-14A-4126 What kind of help is available for an employer or plan administrator who has questions about the National Medical Support Notice? An employer or plan administrator who receives a National Medical Support Notice (NMSN) from the division of child support (DCS) may do one or more of the following to get help with the form:

(1) Visit the DCS internet web site at <http://www.dshs.wa.gov/dcs/employers.shtml>;

(2) Call the DCS Employer Hotline at 1-800-591-2760; or (3) Contact the DCS field office which issued the NMSN.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-4130 What must ~~((an employer or union who receives a notice of enrollment do))~~ a plan administrator do after receiving a National Medical Support Notice from the division of child support? (1) ~~((An employer or union who receives a notice of enrollment from the division of child support (DCS) must answer the notice within thirty five days of receipt, as provided in WAC 388-14A-4120(4).~~

(2) ~~The employer or union must enroll the children named in the notice in a health insurance plan which the employer or union offers to the noncustodial parent (NCP) and which provides coverage accessible to the children, unless the NCP's current support obligation:~~

~~(a) Equals or exceeds fifty percent of the NCP's net earnings; or~~

~~(b) Plus the amount of the insurance premium for the children named in the notice exceeds fifty percent of the NCP's net earnings.~~

~~(3) Except for the limitation in subsection (2) above, the employer or union must enroll the children named in the notice in a health insurance plan which the employer or union offers to the noncustodial parent (NCP) and which provides coverage accessible to the children:~~

~~(a) Upon receipt of the notice of enrollment, even if the plan prevents immediate enrollment; or~~

~~(b) When accessible coverage becomes available, if coverage is not available at the time of the notice.~~

~~(4) If the employer or union offers more than one health insurance plan which could cover the children named in the notice, the employer or union must enroll the children in:~~

~~(a) The NCP's plan, unless accessible coverage is not available to the children under that plan; or~~

~~(b) The least expensive plan which provides accessible coverage for the children.~~

~~(5) The notice of enrollment remains in effect until:~~

~~(a) DCS withdraws the notice; or~~

~~(b) Health insurance coverage is no longer available through the employer or union.~~

~~(6) If coverage for the children is terminated, the employer or union must notify DCS within thirty days of the date coverage ends.)~~ A plan administrator who receives a National Medical Support Notice (NMSN) must respond to the NMSN within forty business days after the date on the NMSN.

(2) If the noncustodial parent (NCP) and the children are to be enrolled in a health insurance plan, the plan administrator must:

(a) Notify the NCP, each child, and the custodial parent (CP) that coverage of the children is or will become available (notifying the CP is considered the same as notifying the child if they live at the same address); and

(b) If not previously provided, send the CP a description of the coverage available, including the effective date of coverage, a summary plan description and any forms or information necessary to start coverage, and information on how to submit claims for benefits.

(3) If there is more than one option available under the plan and the NCP is not yet enrolled, the plan administrator must:

(a) Provide to the division of child support (DCS) copies of applicable summary plan descriptions for available coverage, including the additional participant contribution necessary to obtain coverage for the children under each option and whether any option has a limited service area; and

(b) If the plan has a default option, enroll the children in the plan's default option if the plan administrator has not received DCS' election within twenty business days of the date the plan administrator returned the response to DCS; or

(c) If the plan does not have a default option, enroll the children in the option selected by DCS.

(4) If the NCP is subject to a waiting period that expires within ninety days from the date the plan administrator receives the NMSN, the plan administrator must enroll the children named in the NMSN immediately.

(5) If the NCP is subject to a waiting period that expires more than ninety days from the date the plan administrator receives the NMSN, the plan administrator must notify the employer, DCS, the NCP and the CP of the waiting period. When the waiting period has expired, the plan administrator must:

(a) Enroll the NCP and the children named in the NMSN, as provided in subsection (2) or (3) above; and

(b) Notify the employer of enrollment so that the employer may determine if the NCP's income is sufficient to withhold health insurance premiums, and then either withhold accordingly or notify DCS, as provided in WAC 388-14A-4125 (3)(b).

(6) If the NCP is subject to a waiting period whose duration is determined by a measure other than the passage of time (for example, the completion of a certain number of hours worked), the plan administrator must notify the employer, DCS, the NCP and the CP of the waiting period. When the waiting period has expired, the plan administrator must:

(a) Enroll the NCP and the children named in the NMSN, as provided in subsection (2) or (3) above; and

(b) Notify the employer of enrollment so that the employer may determine if the NCP's income is sufficient to withhold health insurance premiums, and then either withhold accordingly or notify DCS, as provided in WAC 388-14A-4125 (3)(b).

(7) If the plan administrator determines that the NMSN does not constitute a qualified medical child support order as defined by ERISA, the plan administrator must:

(a) Notify DCS using the part of the NMSN called the plan administrator response; and

(b) Notify the NCP, the CP and the children of the specific reasons for the determination. A copy of the plan administrator response is considered sufficient notice under this section.

NEW SECTION

WAC 388-14A-4135 What must the plan administrator do when the noncustodial parent has health insurance but the children are not included in the coverage? (1) If the noncustodial parent (NCP) is enrolled in a health insurance plan through the employer but has not enrolled the children named in the National Medical Support Notice (NMSN), the plan administrator must follow the steps outlined in WAC 388-14A-4130(2) and:

(a) Enroll the child(ren) named in the NMSN under the NCP's health insurance plan; and

(b) Notify the employer and the division of child support (DCS) that the child(ren) have been enrolled.

(2) Under RCW 48.01.235 (4)(a), the plan administrator must enroll a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions.

(3) WAC 388-14A-4145 discusses what the plan administrator must do if the NCP's health insurance plan is not accessible to the children.

NEW SECTION

WAC 388-14A-4140 What must the plan administrator do when the noncustodial parent is eligible for health insurance but is not yet enrolled? (1) If the noncustodial parent (NCP) is eligible for health insurance through the employer but has not enrolled on his or her own, the plan administrator must proceed under WAC 388-14A-4130(3) and:

(a) enroll the NCP and the children in the least expensive plan which provides accessible coverage for the children named in the National Medical Support Notice (NMSN); and

(b) notify the employer and the division of child support (DCS) that the NCP and the children have been enrolled.

(2) The plan administrator notifies DCS of all health insurance plans for which the NCP is eligible, and notifies DCS which plan is the default option.

(3) If DCS does not specify otherwise within twenty business days of the date the plan administrator responds to DCS, the plan administrator must enroll the NCP and the children in the default plan.

(4) Under RCW 48.01.235 (4)(a), the plan administrator must enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions. In order to obtain coverage for the children, the plan administrator must enroll an otherwise eligible NCP without regard to any enrollment season restrictions.

NEW SECTION

WAC 388-14A-4143 What must the plan administrator do when the employer provides health insurance but the noncustodial parent is not yet eligible for coverage? If the noncustodial parent is subject to a waiting period before being eligible for coverage under a health insurance plan provided by the employer, the plan administrator must proceed as follows:

(1) If the NCP is subject to a waiting period that expires ninety days or less from the date of receipt of the National

PROPOSED

Medical Support Notice (NMSN), see WAC 388-14A-4130(4);

(2) If the NCP is subject to a waiting period that expires more than ninety days from the date of receipt of the NMSN, see WAC 388-14A-4130(5); and

(3) If the NCP is subject to a waiting period whose duration is determined by a measure other than the passage of time, see WAC 388-14A-4130(6).

NEW SECTION

WAC 388-14A-4145 What must the plan administrator do when the insurance plan in which the noncustodial parent is enrolled does not provide coverage which is accessible to the children? (1) If more than one insurance plan is offered by the employer or union, and each plan may be extended to cover the child, then the plan administrator must enroll the children named in the national medical support notice (NMSN) in the plan in which the noncustodial parent (NCP) is enrolled.

(2) If the NCP's plan does not provide coverage which is accessible to the child, the plan administrator:

(a) May give the NCP the opportunity to change plans so that NCP and the children may be enrolled in a plan which provides accessible coverage for the children; but

(b) Is not required to change the NCP's plan to one which provides accessible coverage for the children.

NEW SECTION

WAC 388-14A-4150 What must the plan administrator do when the noncustodial parent has more than one family? (1) When a noncustodial parent (NCP) has a health insurance obligation for more than one family, the division of child support (DCS) sends one national medical support notice (NMSN) for each family to the NCP's employer.

(2) If the NCP is already enrolled in a health insurance plan, the plan administrator must attempt to enroll all children named in all of the NMSNs in the NCP's plan.

(3) If the NCP is not already enrolled in a health insurance plan, and the employer offers a health insurance plan which would cover all children named in all of the NMSNs, the plan administrator must enroll the children in that plan. See WAC 388-14A-4140.

(4) If the employer offers only one health insurance plan, or multiple plans which would cover some, but not all of the children named in the NMSNs, the plan administrator must so notify DCS.

(5) DCS chooses the appropriate health insurance plan by considering the following factors:

(a) The wishes of the custodial parent of each family;

(b) The premium limits set by the support orders;

(c) The relative ages of all the children;

(d) How many of NCP's children live in Washington and how many live elsewhere;

(e) How many of NCP's children receive Medicaid;

(f) How many of NCP's children are already covered by private health insurance;

(g) Which plan covers the most children; and

(h) Other factors as may be developed in DCS policy.

(6) The factors listed in subsection (5) are not exclusive, nor are they equally weighted.

(7) Nothing in this section requires the plan administrator to take action to change the NCP's plan unless the NCP requests a change.

NEW SECTION

WAC 388-14A-4160 Are there any limits on the amount a noncustodial parent may be required to pay for health insurance premiums? (1) The National Medical Support Notice (NMSN) advises the employer of any limitations on the amount a noncustodial parent (NCP) may be required to pay for health insurance premiums to cover the children.

(2) Often the support order which contains the health insurance obligation determines the limitation on premium amounts, or states that there is no limitation. See WAC 388-14A-4100 for a discussion of premium limitation amounts.

(3) The premium limitation amount stated in the NMSN:

(a) Describes the premium amount required to cover the children named in the notice; and

(b) Does not include any amounts required to cover the NCP.

(4) Even if the medical insurance premium is within the limits set by the order or by WAC 388-14A-4100, the fifty percent limitation on withholding found in RCW 26.23.-060(3) still applies. See WAC 388-14A-4165 for a description of what happens when the fifty percent limitation is exceeded.

(5) When calculating the fifty percent limitation for withholding purposes:

(a) The premium attributable to coverage for the children is always included in this calculation; but

(b) The premium attributable to coverage for the NCP is included only when DCS requires the employer or plan administrator to enroll the NCP in a health insurance plan in order to obtain coverage for the NCP's children. See also WAC 388-14A-4165(3).

NEW SECTION

WAC 388-14A-4165 What happens when a noncustodial parent does not earn enough to pay child support plus the health insurance premium? (1) Under RCW 26.23.060(3), a payroll deduction may not exceed fifty percent of the noncustodial parent's disposable earnings in each pay period.

(2) When the division of child support (DCS) enforces a child support obligation through an income withholding action and also enforces a health insurance obligation, the noncustodial parent's employer often must withhold amounts for:

(a) Current child support;

(b) Child support arrears; and

(c) Health insurance premiums.

(3) When the employer or plan administrator must enroll the noncustodial parent (NCP) in a health insurance plan in order to enroll the children (see WAC 388-14A-4140), the premium amount for the NCP's coverage is included in the amounts to withhold under subsection (2) above. If the NCP

is already enrolled in a plan, the premium amount for the NCP's coverage is not included the amounts to withhold under that subsection.

(4) If the combined amounts for current support, support arrears and health insurance premiums are more than fifty percent of the noncustodial parent's disposable earnings, the employer must notify DCS immediately.

(5) In certain circumstances, DCS may adjust the amount to be withheld for support arrears so that the total amount withheld does not exceed fifty percent of the noncustodial parent's disposable earnings.

(6) If the noncustodial parent's current support obligation plus health insurance premiums exceeds fifty percent of the noncustodial parent's disposable earnings, DCS:

(a) Enforces the child support obligation through income withholding; but

(b) Is not able to enforce the noncustodial parent's health insurance obligation at that time.

NEW SECTION

WAC 388-14A-4170 How long does a National Medical Support Notice or other notice of enrollment remain in effect? (1) The National Medical Support Notice (NMSN) is a Qualified Medical Child Support Order.

(2) The NMSN or earlier notice of enrollment served by the division of child support (DCS) remains in effect until:

(a) DCS withdraws the notice in writing; or

(b) Health insurance coverage is no longer available through the employer or union.

NEW SECTION

WAC 388-14A-4175 Is an employer obligated to notify the division of child support when insurance coverage for the children ends? (1) Once the division of child support (DCS) has notified an employer that the noncustodial parent (NCP) is obligated by a support order to provide health insurance coverage for the children named in the order, the national medical support notice (NMSN) or other notice of enrollment remains in effect as specified in WAC 388-14A-4170.

(2) If coverage for the children is terminated, the employer must notify DCS within thirty days of the date coverage ends.

WSR 04-13-154

PROPOSED RULES

ENERGY FACILITY SITE EVALUATION COUNCIL

[Filed June 23, 2004, 9:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-13-084.

Title of Rule and Other Identifying Information: Title 463 WAC, rules relating to siting energy facilities. Adopt new rules, and/or revise existing rules that would set standards and/or application requirements for siting new electri-

cal generation facilities in the following areas: (1) Seismicity, (2) noise, (3) fish and wildlife, (4) wetlands, (5) water quality, (6) air quality, (7) socioeconomics, and (8) water quantity. Adopt new rules for mediation, stipulations and settlements. Adopt new/revised existing rules for site certification agreement issuance, amendment, monitoring, and term of certification. Update NPDES rules for consistency with federal requirements. Reorganize Title 463 WAC for clarity.

Hearing Location(s): WSU Energy Building, 925 Plum Street S.E., Building 4, Conference Room 308, Olympia, WA 98504-3172, on August 10, 2003 [2004], at 2:00 p.m.

Date of Intended Adoption: October 10, 2004.

Submit Written Comments to: Allen Fiksdal, EFSEC Manager, EFSEC, P.O. Box 43172, Olympia, WA 98504-3172, e-mail efsec@ep.cted.wa.gov, fax (360) 956-2158, by August 13, 2004.

Assistance for Persons with Disabilities: Contact Mariah Laamb by August 3, 2004, TTY (360) 586-4224 or (360) 956-2121.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is being conducted in response to:

(1) Changes to Energy Facility Site Evaluation Council (EFSEC) statute resulting from EHB 2247;

(2) A report on EFSEC reform requested by Governor Locke entitled "Improving Washington Energy Facility Site Evaluation Council" by Charlie Earl, President of Everett Community College that included suggested changes to EFSEC including rule making to improve the application and review process; and

(3) Governor's directive to establish clear and objective criteria for new energy facilities.

This rule making will give direction to future applicants to EFSEC regarding application content and levels of mitigation required resulting in streamlining the processing of the applications for large energy facilities.

The following chapters will be revised and/or added. Certain existing sections are consolidated into new chapters for clarity. The title will be reorganized for clarity.

Existing chapters that will be revised: Chapters 463-06, 463-10, 463-14, 463-18, 463-22, 463-26, 463-28, 463-30, 463-34, 463-36, 463-38, 463-39, 463-40, 463-42, 463-43, 463-47, 463-50, 463-54, and 463-58 WAC.

New chapters that have been created: Chapters 463-62, 463-64, 463-68, and 463-72 WAC.

Statutory Authority for Adoption: Chapter 80.50 RCW.

Statute Being Implemented: Chapter 80.50 RCW, chapter 90.48 RCW (NPDES rules chapter 463-38 WAC).

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

Name of Proponent: Energy Facility Site Evaluation Council, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Allen J. Fiksdal, EFSEC Manager, 925 Plum Street S.E., Building 4, Olympia, WA 98504-3172, (360) 956-2152; and Enforcement: Mike Mills, Compliance Manager, 925 Plum Street S.E., Building 4, Olympia, WA 98504-3172, (360) 956-2151.

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

Small Business Economic Impact Statement

Executive Summary: The Energy Facility Site Evaluation Council (EFSEC) is proposing revisions to the rules for siting energy facilities in Washington state. The proposed revisions provide clarified direction under authority of chapter 80.50 RCW for public and private proponents that are considering constructing energy facilities within Washington state. EFSEC's goal is to adopt rules that help achieve the legislature's statutory policy objective of assuring abundant power at reasonable cost while protecting the public interest and the environment. This rule making is in response to a recent report on EFSEC, Governor Locke's directive for clearer standards and a collaborative stakeholder process.

EFSEC provides "one-stop" siting review for large energy facilities located in Washington. The council oversees the permitting and environmental review of proposed facilities and makes a recommendation on the project to the governor. In the past, EFSEC has been involved in siting nuclear power plants, coal-fired electric generating plants, petroleum product and natural gas transmission facilities and more recently, natural gas-fired electricity generating facilities. In the last twelve years, twelve of fifteen projects have been natural gas-fired electricity generation facilities and two are wind-powered facilities currently under review.

The proposed rule revisions include changes to most sections of the current rules and the addition of several new sections. In order to evaluate the impacts of the proposed rules, the first consideration was to develop the baseline from which the changes are measured. Parties to adjudicative proceedings before the council have used the opportunity to present settlement agreements, and EFSEC has often approved negotiated settlements between parties and made them permit conditions. Moreover, the EFSEC siting process has evolved over time to provide more comprehensive information, though the detailed requirements may not be explicitly listed in the existing rules. As such, EFSEC considered two baselines to better inform the rule-making process. The existing rule baseline (ER baseline) considers the existing rule language as the baseline. The existing process baseline (EP baseline) utilizes the existing process as implemented by EFSEC in its review of a proposal as the baseline. Existing requirements under the EP baseline were determined based on previously reviewed projects.

EFSEC has carefully evaluated the changes between the existing rules and proposed rule revisions. Most of the changes will be minor in nature and will not significantly affect applicants. Others may impose additional costs on new applicants. EFSEC has identified the following significant changes using the ER baseline:

1. A new requirement to conduct a public meeting during potential site studies.
2. Increased application requirements associated with noise and socioeconomic analyses, and review by EFSEC's independent consultant.
3. Term limits and conditional updates on site certification agreements (SCA).
4. New pollution insurance requirements.
5. Elimination of the requirement to show a "need for power."

Using the EP baseline, only small changes in requirements associated with expanded socioeconomic analysis and elimination of demonstrating a need for power will affect applicants.

To determine the impact of the rule revisions on future facility costs requires consideration of the market for wholesale power. This market has seen considerable change in the last twenty-five years resulting from federal efforts to increase competition, technological innovation and increased environmental concerns associated with energy extraction, transmission and use. In order to forecast the type and quantity of expected new energy facilities a computer model was utilized. The results of the model indicate an increased use of coal and wind for power generation together with additional natural gas fired facilities. Several scenarios were considered to evaluate the responsiveness of expected resource development. The results indicate that greater environmental regulation tends to increase the expected amount of natural gas and renewable power generation.

Using the ER baseline, a typical natural gas-fired or coal-fired electrical generating facility will experience an increase in siting costs of approximately \$67,000 and an increase in operation related expenses of approximately \$25,000-\$80,000 per year. The increased annual expense comes from the requirement for pollution liability insurance and varies significantly based on facility type, operator, and location. Renewable sources should experience a siting cost increase of approximately \$20,000 since noise analyses requirements are likely to be reduced. Pollution liability insurance is also likely to be less expensive for these facilities. Using the EP baseline, a very small cost savings is anticipated.

It is possible that increased siting costs could affect sales by delaying development of new facilities or changing the returns on generating technologies. Under the ER baseline, the percentage increase in capital cost due to the rule revisions for a typical generation facility is estimated to be between 0.01% and 0.02% depending on the generating technology. Nonfuel operation and maintenance costs will rise between 0.4% and 1.0%. Overall, the cost increases are relatively modest.

The impacts to small businesses were also evaluated. An analysis of compliance cost per employee indicates the impacts may be disproportionate. However, an alternative measure of compliance cost per hundred dollars of sales indicates no disproportionality. The extent of the burden is related to facility capacity as more sales can reduce the impact since the increased costs can be allocated over greater output. Analysis of past projects reviewed by EFSEC indicates that capacity selection is unrelated to the number of employees. Therefore, cost incurred per unit of sales is likely to be a more relevant statistic and the impacts are unlikely to be disproportionate. Secondary effects on retail rates were also considered and no disproportionality is anticipated.

As noted above, it is unlikely the impacts will be disproportionate and so no specific actions were taken by EFSEC to reduce the impacts of the rule on small businesses. However, it is hoped the review process will be improved with these rule revisions in such a way that uncertainty and process application time are reduced. This should be a benefit to both small and large businesses. Businesses had the option of

being involved in this rule making through a stakeholder rule development process conducted in 2001-2002 and several public meetings and a public comment period.

In general, the industry most likely to be affected by this rule making is that involved in SIC 4911 "Electric Services." However, other industries could be indirectly affected and a list of potentially affected industries is listed in Section 5.

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1. INTRODUCTION

BACKGROUND: The Energy Facility Site Evaluation Council (EFSEC) is proposing adoption of revised rules for siting energy facilities in Washington state. The proposed rules provide clarified direction under authority of chapter

80.50 RCW for public and private proponents that are considering constructing certain energy facilities within Washington state. EFSEC's goal is to adopt rules that help achieve the legislature's statutory policy objective of assuring abundant power at reasonable cost while protecting the public interest and the environment. This rule making is in response to:

a. A report on EFSEC reform requested by Governor Locke entitled "Improving Washington Energy Facility Site Evaluation Council"¹ that suggested changes to EFSEC including rule making to improve the application and review process.

b. The governor's directive to establish clear, quantifiable standards for siting new energy facilities to reduce uncertainty and expedite decision-making.

c. Results of a collaborative process involving stakeholders to develop proposed rules that would provide standards for siting energy facilities.

As required under RCW 19.85.030, EFSEC is developing and issuing this small business economic impact statement (SBEIS) as part of its rule adoption process. EFSEC will use the information developed in the SBEIS as required by law to ensure that the proposed rules are consistent with legislative policy.

EFSEC AND RULE MAKING: EFSEC was created to provide "one-stop shopping" for those desiring to construct large energy facilities in Washington state. The council consists of six permanent² members: A full-time chair appointed by the governor, and one representative from each of five different state agencies including Fish and Wildlife, Ecology, Natural Resources, Community Trade and Economic Development, and the Utilities and Transportation Commission. The council oversees the permitting and environmental review of proposed facilities and makes a recommendation on the project to the governor. An approval by the governor binds all state and local agencies to the site certification agreement (SCA).

EFSEC's authority is described in chapter 80.50 RCW and implemented via administrative rule Title 463 WAC. Title 463 WAC describes the make-up of the council and outlines the procedures potential applicants are to follow when siting energy facilities in Washington state. The rules include requirements for environmental review and application requirements.

Several recent events have led to efforts to improve the EFSEC siting process. The Earl Report proposed several changes including appointing a full-time chair and directing the chair to initiate rule making. Improving the siting process in this context meant providing greater certainty for applicants and the financial markets that support them and improving the timeliness of the siting decision. The governor's directive also spurred EFSEC to consider the current process and the result was a series of stakeholder development group meetings that took place in 2001-02 and formed the basis for the rules currently presented.³

The proposed rules describe council procedures, requirements for application and review and standards for wetland mitigation, fish and wildlife, noise, etc. These may impact applicants in terms of increased permitting, construction, operation and maintenance and site restoration costs. It is the purpose of this document to outline the potential cost impacts of the proposed rules.

PROPOSED

THE EFSEC PROCESS: The process for licensing major energy facilities⁴ in Washington begins with an optional potential site study (PSS), commissioned by EFSEC at the request of the proponent that identifies major impacts of a proposed facility, or with an application for site certification (ASC). The PSS is prepared in consultation with state agencies, local and tribal governments, federal agencies and other stakeholders and used to develop guidelines the applicant is to consider when developing the ASC and to determine if there are any significant environmental or other obstacles that would be difficult or impossible to mitigate. An applicant may elect to not request a PSS and simply submit an ASC.

By statute, EFSEC must make a recommendation to the governor within one year upon receipt of an application. Application review involves review by an independent consultant for completeness with respect to EFSEC rules, includes notification and distribution of the ASC to interested parties and appropriate governmental agencies, together with an initial public hearing in the vicinity of the proposed project (within 60 days after receipt of the application) for the purposes of informing the public about the proposed project. This also formally initiates scoping under SEPA (and NEPA if applicable) for the EIS and EFSEC's independent consultant proceeds to develop a draft environmental impact statement. Subsequently, another hearing is held to determine whether the project is consistent with local land use plans.

EFSEC's certification process requires the council to hold formal adjudicative hearings on the proposed project to allow the applicant and other parties admitted to the case to present information to support their positions. The testimony and exhibits introduced through this hearing process form the basis for the record the council will consider when determining whether to recommend project approval or disapproval to the governor. Concurrent with this process, EFSEC initiates the process for development of air and water discharge permits required by state and federal law and regulation⁵. Draft permits, and public comments received thereto, and additional documents prepared to comply with the State Environmental Policy Act (EIS), are also considered in the decision-making process.

After the completion of its adjudicative review and completion of the final EIS, and if the council finds the project should proceed, EFSEC develops a draft site certification agreement (SCA) for consideration by the governor. If it finds the project should not proceed, then it will recommend to the governor that the project application be rejected. Within sixty days after receipt of the recommendation from EFSEC, the governor may approve the recommendation and execute the draft SCA, reject the application, or direct EFSEC to reconsider some aspects of the project and draft SCA.

EFSEC has been involved in approximately thirty major energy projects since its inception. While projects proposed in the 1970s and 1980s tended to be nuclear power plants and oil pipelines and associated facilities, recent projects have been predominantly fossil-fuel or renewable energy powered electricity generation facilities.⁶

DESCRIPTION AND PURPOSE OF THE SBEIS: The objective of this SBEIS is to identify and evaluate the various requirements and costs that the proposed rules might impose

on business. In particular, the SBEIS examines whether the costs on business that might be imposed by the proposed rules 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 specific purpose and required contents of the SBEIS are 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.)

"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 business 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.

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.

CONTENTS OF THE DOCUMENT: The proposed rules developed by EFSEC as part of this rule-making process will be further evaluated in the following sections of this docu-

ment. Specifically, the following sections contain the information required by the Regulatory Fairness Act (chapter 19.85 RCW):

Section 2 contains a discussion of the rule revisions and the new rule sections. This section also 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, and [3] the costs of compliance for businesses required to comply with the proposed rule including costs of equipment, supplies, labor, and increased administrative costs. Section 3 provides a forecast of electricity generation for Washington state. Section 4 considers [4] whether compliance with the rule will cause businesses to lose sales or revenue and evaluates [5] whether the proposed rule will have a disproportionate impact on small business. Section 5 considers [6] actions taken to reduce the impact of the rule on small business, describes [7] how small business was involved in the development of this rule and provides [8] a list of industries required to comply with the rule.

The Appendices contain additional information used in this analysis⁷. See the Table of Contents for a more detailed description.

2. DISCUSSION OF COMPLIANCE COSTS FOR WASHINGTON BUSINESSES

INTRODUCTION: The proposed rules include revisions to most existing rule sections as well as completely new sections. In some sections, there were no changes made. In other cases, the changes made will have little or no effect on applicants. EFSEC has carefully evaluated each of the proposed revised or new rule sections and determined which are likely to have significant effects on future applicants. These rule sections were evaluated to determine the specific likely impacts and are described below. A description of the anticipated cost impacts and information utilized to determine the baseline is also provided.

BASELINE DEVELOPMENT: In order to discuss the cost impacts of the proposed rule revisions it is necessary to consider the baseline from which the change in requirements is measured. In the case of EFSEC, the regulatory baseline can be difficult to determine as many of the executed SCA's have involved requirements determined during the adjudicative phase of the application process. Negotiated settlements between parties to the adjudicated proceedings are often proposed to and approved by EFSEC and placed as permit conditions. Moreover, some procedures and precedents have developed over time and are not explicitly stated in the existing rules.

In an effort to more clearly present potential impacts, EFSEC has considered two different baselines in this analysis. One baseline represents what is presently stated in existing rule language. Where it is unclear what the requirements may be by rule, existing guidelines, policy, etc., present at the time of rule adoption were considered to be the standard in effect. The other baseline considered what applicants would have expected as a result of the adjudicative phase and existing review processes. It involved evaluating past projects and determining typical requirements and adjudicative outcomes. These baselines are denoted the "expected rule base-

line" or "ER" baseline and the "expected process baseline" or "EP" baseline respectively.

Determining the impacts of the rule changes involves not only evaluating the changes in the rule language, but also considering the future social, economic and natural environment. In the case of the proposed rule revisions, this is made difficult because of the significant uncertainty associated with the partially restructured wholesale electricity industry, federal policies, etc. A forecast of electricity generation in Washington state, and its impacts to the environment and citizens of the state is considered in Section 3.

COMPLIANCE COST BACKGROUND: Chapter 19.85 RCW is quite specific about the types of costs that are to be considered in an SBEIS. The specific requirements were listed in Section 1 and will be further considered below. EFSEC has carefully evaluated the rules it expects to have cost impacts on businesses (under both baselines). Only those rules that appear to impose significant additional costs on businesses are included below.⁸

The specific costs to be evaluated in this section include reporting and record-keeping costs, professional service fees and costs of equipment, supplies, and labor and increased administrative costs. Additional compliance costs will be noted separately. Lost revenue and proportionality are considered in Section 4. In cases where it appears likely that consultants will provide services requiring equipment or supplies, it is assumed to be included in the unit cost of consultants used for the analysis. All costs incurred by EFSEC are assumed to be passed along to applicants.

COMPLIANCE COSTS⁹:

Part I. Agency Procedures

Chapter 463-22 WAC. Potential Site Studies: The possibility that EFSEC will require a public information meeting during completion of a potential site study will be a new requirement under the ER baseline for those applicants that choose to complete one. This new rule section may require the applicant, the applicant's consultants, EFSEC members and staff, and EFSEC's consultants to travel to a location near the proposed site for a public meeting. It will also involve preparatory time and materials for the applicant and EFSEC staff. Under the EP baseline this will not be an increase in efforts as it has been required on many projects in the past. Table 2-1 summarizes the likely additional costs under both baselines.

Reporting and Record-keeping Costs: It is not anticipated that there will be any additional reporting and record-keeping costs as part of this proposed rule.

Professional Services: As mentioned previously, additional professional services will likely be required as part of this new rule language including payment to EFSEC for the council, staff and EFSEC's consultant to prepare for and attend the meeting, and the cost to the applicant and applicant's consultant to prepare and conduct a presentation. The additional costs are estimated to be approximately \$17,000.

Equipment and Supply Costs: Additional equipment and supply costs should be negligible. It is possible that extra media devices or presentation supplies may be required, but it is assumed that the consultants would include all equipment in their expenses.

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Increased Labor Costs: No additional labor should be required for the applicant outside of that purchased through the consultants.

Increased Administrative Costs: As noted above, the applicant will be involved in the preparation and presentation of information about the application at a public meeting. EFSEC and the applicant will likely be involved in administration in setting up the meeting, processing invoices, etc. This increase is estimated to be approximately \$400.

Other Compliance Requirements: No additional compliance requirements are anticipated.

Table 2-1. Compliance Cost Increase Associated with PSS Site Meeting Requirement

Cost Description	ER Baseline (\$)	EP Baseline (\$)
Professional Services (incl. EFSEC)	\$17,000	\$0
Administrative Costs	\$400	\$0
Total	\$17,400	\$0

Part II. Application and Standards

Chapter 463-60 WAC, Applications for Site Certification: The proposed rule section will require additional information to be provided compared to what has been required in the past. These increased application requirements will likely involve increased professional services in preparing the application together with increased EFSEC consultant review costs. The detailed application costs are summarized in Table 2-2.

The significant requirements for increased information include those associated with a noise analysis and socioeconomic studies. Noise analysis associated with evaluating noise emissions from a proposed facility will require preconstruction background noise monitoring and computer simulation of potential noise impacts. This has been required on past projects¹⁰, but was not present in the existing rule. The expanded socioeconomic analysis¹¹ will require data and analysis regarding impacts to housing and local government revenue.

Reporting and Record-keeping Costs: This rule should not require increased reporting and record-keeping costs unless operational noise monitoring is required. However, this is not likely to be required unless there is a violation of applicable noise standards after the project has received certification, has been constructed and is operating.

Professional Services: Professional service fees will be incurred as a result of the proposed noise standards. This will include initial background monitoring and computer simulations of noise. The estimated cost for background noise monitoring is approximately \$17,000. Noise modeling can range from \$10,000-\$50,000 depending on the site characteristics and the surrounding development. If operational noise monitoring and analysis is required and it could be performed by plant staff, it will likely cost approximately \$10,000 to com-

plete. If a consultant is required, it would likely cost approximately \$17,000 per analysis.

The requirements for expanded socioeconomic analysis will require collection of more comprehensive data and data analysis associated with housing and projections of revenues and costs for local government. The increased cost associated with these new requirements is estimated to be approximately \$7,700.

Additional consulting and EFSEC review services will be required to review the noise and expanded socioeconomic analyses. The additional requirements will result in estimated additional costs of approximately \$3,000.

Equipment Costs, Supplies and Labor and Increased Administrative Costs: No additional equipment costs, supplies, labor or administrative costs are anticipated.

Other Compliance Requirements: No other compliance requirements are likely to be required.

Table 2-2. Compliance Cost Increase from New Application Requirements

Cost Description	ER Baseline (\$)	EP Baseline (\$)
Professional Services (Noise-Application)	\$37,000	\$0
Professional Services (Socioeconomics)	\$7,700	\$7,700
Professional Services (Ind. Consultant)	\$3,000	\$900
Total (Siting)	\$47,700	\$8,600
Professional Services (Noise-Operation)	\$10,000	\$0
Total (Operation)¹²	\$10,000	\$0

It is also intended that more explicit noise standards will reduce the amount of time spent determining the proper monitoring and analysis in the adjudicative process. In the past, this has accounted for one or two days of discussions and could be a substantial reduction in cost for applicants. This cost reduction is not included in Table 2-2.

Natural Environment-Wetlands: In some cases, wetlands will be an important component in siting facilities. The proposed wetland requirements will utilize revised rating criteria and revised requirements for wetlands creation and enhancement, and include provisions for wetland banking. The revised rating criteria will likely result in no net change or a slight reduction in wetland rating levels. Wetland enhancement ratios are expected to increase based on the draft "Guidance on Wetland Mitigation in Washington State" that has been completed. In general, this could result in increased wetlands mitigation requirements for applicants. In the past, applicable mitigation ratios were used to form a "starting point" for determining required mitigation at specific sites. In some cases, they were reduced due to other mitigating factors. The exact cost of any increased mitigation

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requirements will vary with the project site, other mitigation provided, etc. No additional reporting or record keeping should be required. Professional service fees will be required and will vary with the design requirements of the project. Typical values would vary from \$10,000-\$30,000. No additional equipment costs, supplies and labor or increased administrative costs should be required. Other compliance costs include the cost for wetland creation or enhancement which varies significantly depending on the extent of grading, structures, etc., but ranges from \$10,000-\$60,000 per acre. Land acquisition could also be required, although most mitigation is expected to be performed on-site.

Wetland banking will also be allowed by the new rules and has the potential to reduce mitigation costs for applicants. No existing banks have been approved by ecology at this time and so it is difficult to determine the resulting cost savings. In general, lower design costs, and possibly lower construction costs are expected.

Chapter 463-62 WAC, Construction and Operation Standards for Energy Facilities: The new rule will eliminate the requirement to show a "Need for Power." This will reduce the applicant's time in preparation and testimony before the council.

Reporting and Record keeping: No reduced reporting and record keeping is likely.

Professional Services: Fewer professional services will likely be required of applicants in the application process. This will involve less preparation and testimony than was previously the case and is estimated to save approximately \$9,200.

Equipment Costs, Supplies and Labor: No reduction in equipment costs, supplies or labor is likely.

Decreased Administrative Costs: No reduction in administrative costs is expected.

Other Compliance Requirements: No additional compliance requirements are likely.

This reduction in cost will be applicable for both the ER baseline and the EP baseline.

Table 2-4. Compliance Costs Associated with Elimination of the Requirement to Show a Need for Power

Cost Description	ER Baseline (\$)	EP Baseline (\$)
Professional Services	-\$9,200	-\$9,200
Total	-\$9,200	-\$9,200

Part III. Site Certification Agreement

Chapter 463-68 WAC, Site Certification Agreement-Start of Construction, Expiration and Reporting: The proposed rule has specific requirements for providing information if construction is delayed more than five years from the effective date of the SCA. It also directs that SCA's expire ten years from their effective date. Applicants will lose some flexibility in terms of delaying construction and may experience increased costs if standards have changed after the first five years.

Reporting and record keeping: This requirement is likely to result in increased reporting and record-keeping costs associated with keeping EFSEC informed of changes at the proposed site over time. If a report is required, it will involve evaluating the executed SCA, current conditions at the site and in the proposed design, and an appearance before the council. If changes have occurred to the physical or regulatory environment, then this could necessitate opening up the agreement, additional review and potentially more mitigation. In general, the most significant impacts from a power plant are air and water impacts that are already being considered in permits that have a defined update process required by state and federal law and regulatory procedures. Technological changes requested by the certificate holder are already required to go through an SCA amendment process. As such, it is unlikely these requirements will be much of a deviation for new certificate holders from the current procedure. The estimated cost increase to develop a report for certificate holders that wait at least five years before construction is approximately \$10,700. Any additional requirements due to changes in regulations or site environment would likely cost more.

If an agreement expires after ten years and the certificate holder wants another agreement, then this would require a complete new application process. This would involve not only the increased costs of the application, but also the increased cost associated with any new rules in effect. Application costs could be \$1.5-2 million and mitigation of impacts pursuant to updated rules in effect at the time of reapplication could cost substantially more. This type of situation has not occurred in the recent history of the council.

No additional equipment costs, supplies, labor or administrative costs are likely to be required.

Other Compliance Requirements: No additional compliance costs are anticipated.

Table 2-3. Compliance Costs Associated with Site Certification Agreement Expiration

Cost Description	ER Baseline (\$)	EP Baseline (\$)
Professional Services	\$10,700	\$0
Total	\$10,700	\$0

Chapter 463-72 WAC, Site Restoration and Preservation: The revised rule will now require pollution liability insurance for new facilities. The exact cost impact for new facilities depends significantly on the type of facility proposed, technological processes, environment, applicant, etc. This has been required for several projects by EFSEC in the past and is not considered a new requirement under the EP baseline.

Reporting and Record keeping: No additional reporting and record keeping should be required.

Professional Services: Professional services will be required associated with increased pollution insurance requirements. Pollution insurance will likely cost between \$10,000 and \$80,000 per year for most new facilities depending on the site and generating technology. For coal-fired

facilities, the cost could be higher. Wind power projects would likely incur costs closer to \$10,000-\$20,000/year.

Equipment Costs, Supplies and Labor and Increased Administrative Costs: No additional equipment costs, supplies, or labor costs are anticipated. Some increase in administrative cost is possible for ensuring the policy is in place every year.

Other Compliance Requirements: No additional compliance requirements are expected as part of this analysis.

Part IV. Permits

No significant economic impacts are anticipated.

COMMENTS ON COMPLIANCE COSTS: As can be determined above, it is likely that siting costs for a typical natural gas fired power plant could increase approximately \$67,000¹³ and operation and related expenses could increase approximately \$50,000 per year utilizing the existing rule baseline. However, it is important to note that under the existing process baseline, very few of these costs will be new to potential applicants. In fact, the above analysis actually indicates a very small compliance cost savings for applicants under the existing process baseline. As such, for any applicants familiar with EFSEC's process and requirements there will likely be a slight reduction in expected compliance costs.

The above analysis has focused on generating resources and has not considered transmission facilities, oil refineries and other types of facilities that come under the regulation of EFSEC. For those types of projects, many of the new application requirements are still likely to apply. For example it is reasonable to expect that an applicant proposing a new transmission line would still be required to conduct a PSS public information meeting (if they elect to request a PSS), provide expanded socioeconomic analysis (and possibly a noise evaluation), be required to have pollution insurance and have its SCA subject to term limits and conditional updates. As such, much of the above analysis should apply.

3. FORECAST OF ELECTRICITY GENERATION IN WASHINGTON

INTRODUCTION: Providing a quantitative estimate of the cost impacts and proportionality of the proposed EFSEC rule revisions requires considering the physical impacts to the regulated industry. Since the rules will only apply to newly certified and constructed plants, a forecast of the future development of energy generation facilities in Washington state is required and involves considering the structural changes in the markets for wholesale and retail electricity. The following section provides an estimate of the number and types of generation assets likely to be developed in Washington through 2025.¹⁴

BASELINE: In order to discuss the economic costs of the proposed rule revisions it is necessary to consider both the regulatory and economic baseline. As was described in Section 2, EFSEC has decided to consider two different regulatory baselines for analysis.

The economic baseline is also important to consider. Future generating facilities will be developed in the context of changing wholesale power markets, evolving government regulation and technological improvements. In an effort to consider this variability, EFSEC considered three alternative

scenarios related to new requirements for greenhouse gas mitigation. This does not reduce the importance of other sources of uncertainty, but was provided to give some sense of how this specific source of uncertainty might affect new generation assets.¹⁵ The following scenarios were considered:

Scenario 1: Scenario 1 assumes that existing conditions in the market for wholesale power do not change. The Oregon and Washington CO₂ mitigation requirements continue to be in effect at the existing rates adjusted by the Producer Price Index and existing mitigation amounts through 2025. There is no federal policy or additional state level policies put into effect over the life of the analysis and the Kyoto protocol does not go into effect. The Canadian provinces would also not adopt any further climate change mitigation programs. No other changes would occur in the competitive structure of the wholesale electricity industry from what is outlined elsewhere (see Appendix D).

Scenario 2: Scenario 2 assumes revisions occur to existing climate change programs. The Oregon and Washington CO₂ standards remain in effect but the offset price rises to \$30/ton in 2025. These requirements are assumed to apply only to new power plants and not existing sources of greenhouse gas emissions. California, British Columbia and Alberta would begin an emission offset program similar to Oregon's in 2007. All other states on the Western Interconnect would require carbon dioxide mitigation in 2012.

Scenario 3: Scenario 3 involves significant changes to current climate change policy. Oregon and Washington standards for CO₂ remain in effect until 2012 when a federal program modeled after United States Senate Bill 139 of 2003 (the proposed Climate Stewardship Act) would go into effect. This would impact all new and existing electricity generating assets if they produce greenhouse gases by requiring permits for emissions.

ELECTRICITY GENERATION FORECAST: The evaluation of how future electricity demand will be met by generation resources constructed in Washington is complicated. Electricity demand in Washington is only partially linked to generating resources in Washington. Because the power grid is an interconnected regional bulk power system, it is possible that plants built in Washington will serve loads in other states/countries and vice versa.

The Northwest Power and Conservation Council (NPPC) evaluates the supply of power in the Northwest power pool by looking at the entire Western Interconnect (WECC). They use a computer optimization model¹⁶ that forecasts wholesale prices, develops the types of resources that are likely to come on-line and which will be likely to go off-line. The model evaluations involve significant input parameters including a library of possible generating facilities and operational characteristics and demand growth in various regions.¹⁷ They also make explicit assumptions regarding the future of the power system.

There are various ways that new capacity could be provided to meet the projected load growth. Moreover, there are several things to consider including the future extent of deregulation and generation ownership, the outfall from the 2000-2001 energy crisis and increased preference for renewables due to state and federal policy and risk reduction.

Restructuring has left us with a partially deregulated system, and further moves to refine the system are important to consider. Attempts to increase retail competition might significantly affect the amount of new resource required if consumers begin responding to price signals. The energy crisis has pushed utilities to further consider risk management options like addition of wind power (fixed-cost resources) to their portfolios and to create their own generation alternatives to reduce the impact of market price volatility. In Washington, chapter 19.29A RCW, passed in 2001, requires firms to offer some renewable power to their customers and utilities are currently actively involved in moving forward to do this. Proposed federal legislation is also considering extending

existing wind power subsidies. All these changes may lead to increased demand for wind power.

The development of increased siting and operation standards in Washington may also lead to an increase in the likelihood that power would be supplied from out-of-state sources. However, project location decisions are still driven to some extent by proximity to load as transmission system congestion and line losses from lengthy transmission routes can be significant and costly problems.¹⁸ Additionally, the attractiveness of generation assets will be affected by the amount of carbon mitigation required of new fossil-fueled power sources. This was considered in the scenarios used for this analysis and the results of the simulations are presented below in Tables 3-1 through 3-3.¹⁹

Table 3-1. Scenario 1: CO² Mitigation Requirements in WA/OR/N. ID

Resource Group	2003 (1)	2005	2010	2015	2020	2025 (2)	Total Change (2)-(1)
New Coal	0	0	400	1600	1600	1600	1600
New NGCC ²⁰	0	0	0	0	0	0	0
New Wind	0	0	0	0	2098	4996	4996
New Solar	0	0	0	0	0	0	0
Planned NGCC	490	741	741	502	502	502	12
Planned Wind	4	120	655	1127	1127	1127	1123
Total Generating Capacity(MW)²¹	41799	42434	43288	43667	45765	48626	6827

As can be seen, four new coal plants and approximately 5,000 MW of new wind powered generating facilities are forecast to be added in the region over the next twenty years. Coal plants are cost-effective assets if environmental requirements are not increased. Wind becomes an important energy source due to technological improvements.

Scenario 1 does not consider the impacts of Kyoto obligations in the Canadian provinces of British Columbia and Alberta. Moreover, this model is unlikely to best approximate the future for more than a few years since it is likely that other actions will be taken to mitigate climate change. Therefore, Scenario 2 might be a more realistic forecast of future generating assets.

Table 3-2. Scenario 2: CO² Mitigation Requirements all Across the WECC by 2012

Resource Group	2003 (1)	2005	2010	2015	2020	2025 (2)	Total Change (2)-(1)
New Coal	0	0	400	400	400	400	400
New NGCC	0	0	0	0	616	1848	1848
New Wind	0	0	0	1599	4798	4996	4996
New Solar	0	0	0	0	0	0	0
Planned NGCC	490	741	741	741	741	741	251
Planned Wind	4	120	655	1127	1127	1127	1123
Total Generating Capacity(MW)	41799	42434	42398	43538	47353	48783	6984

The model indicates that approximately 400 MW of new coal fired generation would come on-line in Washington, Oregon and northern Idaho by 2025 if climate change mitigation is required in other states. This represents fewer coal-fired plants than identified under Scenario 1, indicating that coal plant siting is affected by out-of-region environmental requirements. However, 1,848 MW of new natural gas com-

bined cycle power plants would be located in the region if mitigation standards are present elsewhere and 4,996 MW of new wind would be added. Natural gas appears to be the fuel of choice for base-load plants subject to increasingly strict environmental regulations.

Scenario 3 was developed to represent the possibility that some federal action is taken on climate change. The results are presented below.

Table 3-3. Scenario 3 with Federal CO₂ Permit Requirements

Resource Group	2003	2005	2010	2015	2020	2025	Total Change
New Coal	0	0	0	0	0	0	0
New NGCC	0	0	0	616	2466	3083	3083
New Wind	0	0	3398	4996	4996	4996	4996
New Solar	0	0	0	0	0	100	100
Natural Gas Industrial Cogeneration	416	457	457	457	457	457	457
Planned NGCC	490	741	741	741	741	741	741
Planned Wind	4	120	655	1127	1127	1127	1123
Total Generation Capacity(MW)	41799	42434	45468	46809	47243	47957	6158

As can be seen, much stricter greenhouse gas mitigation requirements makes new coal-fired plants infeasible, but increases the quantity of gas-fired plants added over time relative to less-strict requirements. New wind sources are unaffected by the new greenhouse gas requirements. This scenario also requires existing plants to consider obtaining emission offsets and the model indicates increased retirements of existing plants.

ELECTRICITY GENERATION IN WASHINGTON: The results of the computer analyses indicate the amount and type of new generation resources that would be proposed/constructed under alternative scenarios. The important result is that new natural gas, coal, wind and possibly solar powered plants are likely to be constructed in the northwest in the next twenty years.

The results presented describe the estimated generation assets for Washington, Oregon and northern Idaho together. Therefore, it is necessary to separate the resources that will

be developed in Washington from those developed in the other states in order to evaluate the impacts from EFSEC's proposed rule. Additionally, the modeling results presented utilize a library of new generation resources. For the fossil fuel facilities, the model library considers projects larger than 350 MW that would come under EFSEC review.²² In reality, the additions could also come from smaller facilities that would not all be under EFSEC jurisdiction.

The forecasted generation assets were allocated among states based on existing retail electricity demand. This may over- or under-estimate new Washington generating resources since load growth rates will vary among states and generating resources may be located remotely from load. Moreover, renewable energy sources are much more location dependent than fossil fuel plants and this is not reflected within the region. Allocations were rounded to the nearest unit plant size. The results are presented in Table 3-4 below.

Table 3-4. Estimated Type and Size of New Generation Assets through 2025

	Estimated Number of New Plants WA/OR/n. ID	Estimated New Capacity for WA/OR/n. ID (MW)	Estimated Number of New Plants in Washington	Estimated New Capacity for Washington (MW)	Estimated Number of New Plants in WA Regulated by EFSEC	Estimated New Capacity Regulated by EFSEC (MW)
Scenario 1						
New Coal	4	1,600	2	1,200	2	800
New NGCC	0	0	0	0	0	0
New Wind	50	4,996	28	2,798	12	1,200
Planned NGCC	-	251	-	251	-	0
Planned Wind	-	1,123	-	629	-	629
Scenario 2						
New Coal	1	400	1	400	1	400
New NGCC	3	1,848	2	1,232	1	616
New Wind	50	4,996	28	2,798	12	1,200

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	Estimated Number of New Plants WA/OR/n. ID	Estimated New Capacity for WA/OR/n. ID (MW)	Estimated Number of New Plants in Washington	Estimated New Capacity for Washington (MW)	Estimated Number of New Plants in WA Regulated by EFSEC	Estimated New Capacity Regulated by EFSEC (MW)
Planned NGCC	-	251	-	251	-	0
Planned Wind	-	1,123	-	629	-	629
Scenario 3						
New Coal	0	0	0	0	0	0
New NGCC	5	3,083	3	1,848	2	1,232
New Wind	50	4,996	28	2,798	12	1,200
New Solar	1	100	1	100	1	100
Planned NGCC	-	251	-	251	-	0
Planned Wind	-	1,123	-	629	-	629

4. SALES IMPACTS AND DISTRIBUTION OF COSTS

INTRODUCTION: RCW 19.85.040 requires that the analysis consider [4] whether compliance with this rule will cause businesses to lose sales or revenue and [5] whether the proposed rule will have a disproportionate impact on small business. The increased costs come from increased siting and operation requirements for new energy facilities locating in the state.

The increased costs will affect both existing and proposed energy facilities and could have indirect effects on other business entities operating in Washington state. The majority of the increase will affect siting and operation costs and be unrelated to output of the facility.²³ In general, an increase in fixed costs will impact firms with less output (i.e. "small" firms) more significantly than firms with more output (i.e. "large" firms). This occurs because firms with less output that try to recoup fixed costs by raising the price of their final product must raise the price proportionately more than large firms.

Increased siting and operating costs for new energy facilities could benefit existing firms as existing plants are used more intensively or retirements of existing plants are delayed. In some cases, the impacts may be passed along to others as secondary impacts. Which business entities are affected and how these new requirements will affect them depend on the specific markets and market participants.

SALES IMPACTS BY RESOURCE TECHNOLOGY: Potential sales impacts to new generating resources in Washington could occur if the increased costs of siting facilities delay construction or are passed along in wholesale electricity prices. The estimated increased siting and operation cost under the existing rule basis is approximately \$930,000 for a typical natural gas fired combined-cycle power plant.²⁴ This represents approximately 0.02% of a typical plant's capital costs. If increased costs are passed along in wholesale electricity prices, the price of wholesale electricity is expected to increase by approximately \$0.01/MWh which represents about 0.025% of the price of wholesale power.²⁵ Table 4-1 provides the results for the different electricity generating technologies.

Table 4-1. Facility Siting and Wholesale Power Cost Increases by Electricity Generating Technology Due to the Proposed Rule Revisions

	Natural Gas CC (610 MW)	Coal Steam (400 MW)	Wind-Powered (100 MW)	Solar-Powered (100 MW)
Capital Cost (Million \$) ²⁶	359.9	559.3	110.3	651.8
Capital Cost Increase (Mill\$)	0.07	0.07	0.02	0.02
Percentage Increase in Capital Cost	0.02%	0.01%	0.02%	0.00%
Fixed Non-fuel O&M Cost (Mill\$/yr)	4.9	16.0	2	1.5
Fixed Non-fuel O&M Increase (Mill\$/yr)	0.05	0.07	0.02	0.02
Percentage Increase in Nonfuel O&M Cost	1.0%	0.4%	1.0%	1.3%
Percentage Change in NPV ²⁷	-0.4%	-1.1%	-1.1%	N/A ²⁸

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	Natural Gas CC (610 MW)	Coal Steam (400 MW)	Wind-Powered (100 MW)	Solar-Powered (100 MW)
Change in Cost of Electricity (\$/MWh)	0.01	0.03	0.09	0.14

As can be seen, the net present values of the investments fall for an assumed market price, and electricity costs increase. In general, NPV falls less for gas plants than coal or wind powered plants since compliance costs are less and output is greater. The estimated cost per megawatt-hour increases more for coal than gas fired plants and even more for wind power due to the intermittent nature of this resource.

Because of the reduction in NPV and increase in wholesale power costs it is possible that existing plants may experience an increase in sales if siting of new facilities is delayed due to the reduced investment return. This would increase the time of use of existing plants and potentially delay retirement of some plants. The impact of these investment value and price changes for both existing and new plants is likely to be relatively minor as other factors will drive siting decisions

like fuel costs, public responsiveness and environmental policy. The fact that several facilities have been certified using standards similar to the proposed rules (i.e., the existing process baseline) supports this assertion.

DISTRIBUTION OF COMPLIANCE COSTS: RCW 19.85.040 requires an evaluation of how compliance costs may vary between small and large firms. In general, the proportionality of cost impacts will depend on the baseline considered, entity type, and generation technology. Entities are classified as consumer owned utilities (COUs), investor owned utilities (IOUs) and independent power producers (IPPs).

Chapter 19.85 RCW allows impacts to be measured based on cost per employee, labor hour or hundred dollars of sales. Determining the number of employees is made difficult because the rule revisions only apply to future generation facilities. Entities that currently own existing plants or transmit and distribute electricity in Washington along with IPPs currently involved with the northwest electricity industry were used as a proxy for future developers.²⁹ The generation technologies considered are those considered likely for development in Washington and identified in Section 3. The results of the proportionality analysis are listed using two of the criteria from chapter 19.85 RCW in Tables 4-2 and 4-3.³⁰

Table 4-2. Proportionality of Compliance Costs (Dollars per Employee)

			Compliance Cost (\$/employee)			
	No. Firms	Avg. No. Employees	Natural Gas CC (610 MW)	Coal-Fired (400 MW)	Wind-Powered (100 MW)	Solar-Powered (100 MW)
Existing Rule Basis						
<i>IOU</i>						
Small	2	10,057	92.7	127.0	36.4	36.4
Large	1	20,200	46.1	63.2	18.1	18.1
<i>COU</i>						
Small	34	14	66,557.3	91,260.2	26,145.8	26,145.8
Large	25	292	3,191.1	4,375.5	1,253.6	1,253.6
<i>IPP</i>						
Small	4	21	44,371.5	60,840.1	17,430.5	17,430.5
Large	17	53,550	17.4	23.9	6.8	6.8
Existing Process Basis						
<i>IOU</i>						
Small	2	10,057	-0.0	-0.0	-0.0	-0.0
Large	1	20,200	-0.0	-0.0	-0.0	-0.0
<i>COU</i>						
Small	34	14	-42.9	-42.9	-42.9	-42.9
Large	25	292	-2.0	-2.0	-2.0	-2.0
<i>IPP</i>						
Small	4	21	-28.6	-28.6	-28.6	-28.6
Large	17	53,550	-0.0	-0.0	-0.0	-0.0

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Table 4-3. Proportionality of Compliance Costs (Dollars per Hundred Dollars in Sales)

		Compliance Cost (\$/sales)			
	No. Firms	Natural Gas CC (610 MW)	Coal-Fired (400 MW)	Wind-Powered (100 MW)	Solar-Powered (100 MW)
Existing Rule Basis					
<i>IOU</i>					
Small	2	0.020	0.040	0.116	0.173
Large	1	0.020	0.040	0.116	0.173
<i>COU</i>					
Small	34	0.020	0.040	0.116	0.173
Large	25	0.020	0.040	0.116	0.173
<i>IPP</i>					
Small	4	0.020	0.040	0.116	0.173
Large	17	0.020	0.040	0.116	0.173
Existing Process Base					
<i>IOU</i>					
Small	2	-0.00	-0.00	-0.00	-0.00
Large	1	-0.00	-0.00	-0.00	-0.00
<i>COU</i>					
Small	34	-0.00	-0.00	-0.00	-0.00
Large	25	-0.00	-0.00	-0.00	-0.00
<i>IPP</i>					
Small	4	-0.00	-0.00	-0.00	-0.00
Large	17	-0.00	-0.00	-0.00	-0.00

As can be seen from Table 4-2, the distribution of cost impacts as measured by additional dollars per employee appears to indicate that the impacts will be greater for firms with fewer employees and tend to hurt small COUs and IPPs more. However, Table 4-3 indicates that the cost impacts as measured per hundred dollars in revenue will not be greater for small firms but will vary with generating technology.

These conflicting results are not surprising. The compliance costs for any given technology are largely the same regardless of employment and plant capacity. Therefore, as the number of employees increases the cost impacts per employee appear smaller. However, when costs are measured based on sales revenue, those costs are spread over the same revenue stream for a given size plant and technology regardless of the number of employees. Therefore, there appears to be no disproportionate impact.

If plant capacity or technology selection varies with the size of developer, we would expect that effects would be disproportionate. Therefore a more relevant question is "does new plant capacity or technology choice vary with the size of the proponent firm in the class of plants 350 MW or larger?" EFSEC's experience with previous SCAs indicates no clear trend in plant size, generation technology and proponent size.³¹ Oregon's siting council (EFSC) has had a similar experience.³² It appears that both small and large firms develop plants greater than 350 MW and capacity and energy source choices are largely unrelated to developer size. As such, these rule revisions should not disproportionately affect smaller proponents more than large proponents.

SECONDARY IMPACTS

Rate Impacts: It is possible that some or all of the increased costs associated with the proposed rule revisions will be passed on to consumers in the form of higher electricity rates. For COUs and IOUs this would occur by including the increased cost in the utility rates approved by individual utility boards. For IPPs, higher prices would be determined within the market for wholesale power.

Generation costs would increase differently for each type of generation technology since some plants have less capacity and lower capacity factors. A new wind power plant would have to raise money for a lower average MW capacity than a natural gas plant. As noted previously, we would expect a cost increase of between \$0.01 and \$0.09 per megawatt-hour depending on the technology. Given the typical quantities of power used by various types of consumers in Washington³³, we would expect the average annual utility bills for the different consumer classes to increase as listed in Table 4-4.

Table 4-4. Estimated Annual Consumer Bill Increase if Costs are Passed on to Consumers

	100% New Sources		10% New Sources	
	\$0.01/MWh	\$0.09/MWh	\$0.01/MWh	\$0.09/MWh
Wholesale Power Cost Increase	\$0.01/MWh	\$0.09/MWh	\$0.01/MWh	\$0.09/MWh
Residential Consumers	\$0.13/yr	\$1.15/yr	\$0.01/yr	\$0.12/yr
Commercial Consumers	\$0.84/yr	\$7.56/yr	\$0.08/yr	\$0.76/yr
Industrial Consumers	\$10.62/yr	\$95.60/yr	\$1.06/yr	\$9.56/yr

Table 4-4 lists the consumer class and additional annual cost of electricity for both a \$0.01/MWh increase and \$0.09/MWh increase assuming all electricity comes from a source subject to the new rules ("100% new sources") or that only 10% of the power comes from a source subject to the new rules ("10% new sources"). It is unlikely that any given consumer would get all its power from a single new source. Therefore, the second scenario (i.e. 10% power from a new source) is likely to be more representative.

To consider whether these potential rate impacts would be disproportionately borne among business consumers involves evaluating the amount of power used by firms of different sizes. Table 4-5 lists the employment sizes, consumption per employee and average energy consumption for typical firms.³⁴

Table 4-5. Firm Size, Consumption and Cost/Employee

Firm Size (No. of Employees)	Average No. of Employees	Consumption/Employee (MWh/yr)	Cost/Employee (assuming \$0.01/MWh increase)	Cost/Employee (assuming \$0.09/MWh increase)
<50	6	2.72	\$0.03	\$0.24
50-99	68	8.32	\$0.08	\$0.75
100-499	193	23.80	\$0.24	\$2.14
500-999	690	36.57	\$0.37	\$3.29
>1000	5892	5.19	\$0.05	\$0.47

As can be seen from Table 4-5, the exact distribution of costs tend to hurt firms at least partially in proportion to their size. Bigger firms pay more per employee for the cost impacts. For very large firms the effect is smaller, but still larger than for small firms.

Input Impacts: Natural gas has been the most efficient fuel used for new electricity facilities in recent years. Raising the cost to develop these plants might lead to a reduction in the use of natural gas. However, any impact would depend on the cost of the other generation technologies like wind, and on the cost for other inputs like coal. To the extent that coal will also be subject to increased requirements for carbon mitigation and that wind is a site specific resource with a low capacity factor, it is unlikely that the increased costs will change the generation technology choice at the margin. However, the price of natural gas may remain high which will tend to encourage the use of other fuel sources. Generally speaking, it is unlikely that firms will be able to negotiate reduced energy input prices that will allow them to avoid raising prices or accepting a reduced investment return.

CONCLUSION: Businesses engaged in the production of electricity will incur increased compliance costs as a result of the rule revisions. In general these increases will vary significantly depending on the evaluation baseline used, and changes in markets for wholesale electricity and environmental regulation.

Many of the cost impacts outlined in this section depend on the "existing rule" baseline. As was noted previously, most of the changes written into the revised and new rules are already being experienced by applicants planning to site large energy facilities in Washington because they are incorporated into the existing review process. Therefore, the impact on the decision by a proponent to locate a facility will likely not be impacted to any great extent as firms are already taking the proposed changes into their project planning process.

This analysis was provided to clarify the potential impacts of the rule change. In general, it appears the impacts from the rule revisions will be relatively minor and are unlikely to be disproportionately borne by small businesses.

5. BUSINESS INVOLVEMENT AND INDUSTRY

ACTIONS TAKEN TO REDUCE THE IMPACT ON SMALL BUSINESS: As noted previously, it appears that the rule making will be unlikely to have disproportionate impacts on smaller firms. EFSEC's overall intent for this rule making was to make the application process more efficient for project proponents. It is intended that the new rules will reduce the uncertainty associated with siting facilities in Washington and reduce the associated financial penalties. It is also hoped

that more explicit standards will reduce the time for a recommendation to be made to the governor by more clearly stating the type and quantity of submittals required of an applicant.

In addition, EFSEC removed the requirement to provide the need for power analysis which should reduce the burden on firms. To the extent, that these tasks are fixed costs, they will benefit firms with less output more than firms with greater output. EFSEC did not reduce the level of inspections for small firms, delay compliance timetables or reduce fines.

HOW WAS SMALL BUSINESS INVOLVED IN THE DEVELOPMENT OF THIS RULE? As mentioned previously, the stimulus for rule making came from the Earl Report. The council began rule making in 2001 by convening a standards development group that met from December 2001 to August 2002. The task of the group was to identify subjects that needed to be considered and develop proposals for rules. The results of this effort were reported in the Krogh and Leonard Report and were the basis for the draft rules that were developed by EFSEC. Two public meetings were held to consider the proposed rules and written comments were taken through December 2003. The proposed standards were also posted on EFSEC's website and a final public meeting was held in May 2004. Throughout the process, EFSEC has encouraged participation from all entities to help in the council's consideration of the impacts and outcomes of the proposed rules. The public process was open to both small and large businesses.

LIST OF INDUSTRIES REQUIRED TO COMPLY: The most likely industries to which these rules would apply would be those involved in the production and transmission of electricity or development of refineries or fuel transmission lines. Other firms that elect to develop cogeneration facilities might also be included. Table 5.1 contains [9] a list of industries required to comply with the rule(s). The table was constructed based on data provided by the Washington State Employment Security Department. In general, the majority of plants are classified SIC Code 4911. The other codes reflect related services such as management consultants and commodities brokers.

Table 5.1. Industries Likely to be Required to Comply with the Rule Revisions

SIC Code	Description
1321	Natural Gas Liquids
2911	Petroleum Refining
4612	Crude Petroleum Pipeline

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SIC Code	Description
4911	Electric Services
4922	Natural Gas Transmission
6221	Commodity Contract Brokers, Dealers
7389	Business Services, nec
8742	Management Consulting Services

¹ Known as "the Earl Report." This report and other information including minutes of stakeholder discussions can be found at the EFSEC website; www.efsec.wa.gov.

² When an application is received by EFSEC, four additional agencies may opt into the review of the proposal, and local governments and port districts where the facility is proposed may also appoint members to the council.

³ The results of those meetings are summarized in "Krogh & Leonard Report to Jim Luce, Chair, Washington Energy Facility Site Evaluation Council Regarding EFSEC Standards Development," 2002, available at www.efsec.wa.gov.

⁴ A process known as "certification."

⁵ EFSEC has been delegated authority by the EPA to issue air and water quality permits authorized in federal law.

⁶ Projects EFSEC has provided review and oversight of since 1992 can be found in Appendix B. Attachment 3 of the Earl Report provides a listing of project involvement prior to 1992.

⁷ Due to size limitations relating to the filing of documents with the code reviser, the SBEIS does not contain the appendices that further explain the council's analysis. Additionally, it does not contain the raw data used in this analysis, or all of EFSEC's analysis of this data. However, this information is being placed in the council's rule-making file, and is available upon request.

⁸ A complete "crosswalk" describing existing and proposed rules can be found in Appendix C.

⁹ All chapter numbers listed are the "new" numbers assigned by the code reviser.

¹⁰ Potential noise impacts have become a very significant issue in EFSEC reviewed projects in the past ten years.

¹¹ To complete an EIS, detailed socioeconomic information is required.

¹² Only required if it is determined that current noise emissions exceed applicable WACs. Amount assumes that monitoring is conducted by plant staff.

¹³ Assumes project construction begins more than five years from the effective date of the SCA. If project commences before that period, then the siting cost increase would be approximately \$56,300 for a typical site.

¹⁴ A complete description of the modeling can be found in Appendix E.

¹⁵ These modeling results were originally developed for consideration of a proposed EFSEC carbon dioxide mitigation rule section. The legislature passed SHB 3141 which was very similar to EFSEC's proposed rule and EFSEC is no longer considering any CO² mitigation as part of this rule making.

¹⁶ NPPC uses Aurora by Epis, Inc. EFSEC acknowledges the excellent assistance provided by Jeff King and the council on this analysis.

¹⁷ The regions are based on transmission congestion difficulties rather than political boundaries and are described in the appendix.

¹⁸ Proximity to fuel supply, water for cooling and transmission connections are also important factors.

¹⁹ Appendix D provides background information on the industry and Appendix E has a more complete discussion of the modeling procedure and results.

²⁰ Natural gas combined cycle power plant.

²¹ Total includes existing capacity in addition to new and planned facilities.

²² Model coal plant size is 400 MW, gas plant is 610 MW (w/duct firing), wind is 150 MW and solar is 100 MW.

²³ These are known as "fixed" costs. Costs that depend on output levels are known as "variable" costs.

²⁴ This calculated cost increase and those listed in Table 4-1 are based on compliance costs outlined in Section 2 under the existing rule baseline.

assume no wetlands are impacted and assume construction begins more than five years from SCA execution. The real discount rate used is 4%.

²⁵ Assuming a wholesale price of \$40/MWh.

²⁶ Cost assumptions taken from "Wholesale Power Price Forecast for the Fifth Power Plan," NPPC, 2003.

²⁷ Calculations assume an initial wholesale price of \$40/MWh for gas plants, \$45/MWh for coal plants and \$60/MWh for wind plants. The calculations do not include the federal production tax credit for wind.

²⁸ Solar power is not economically viable at this time.

²⁹ Data used is from NPPC "Power Plants of the Northwest," the Northwest Independent Power Producers Coalition, Washington Employment Security, Corporate websites and personal contacts.

³⁰ The average number of employees listed for the large firms is based on the largest 10% of firms by employee number.

³¹ The proponent for the largest EFSEC certified facility was a small firm. The sole constructed plant was built by a large firm.

³² 90% of plants certified by Oregon's EFSC were large firms.

³³ Data from Energy Information Administration (EIA) "U.S. Average Monthly Bill by Sector, Census Division and State, 2001," http://www.eia.doe.gov/cneaf/electricity.

³⁴ Data from "Electricity: Components of Net Demand, 1998" Energy Information Administration and "U.S. Employer Firms 2000," U.S. Census Bureau.

A copy of the statement may be obtained by contacting Allen J. Fiksdal, EFSEC Manager, EFSEC, P.O. Box 43172, Olympia, WA 98504-3172, phone (360) 956-2152, fax (360) 956-2158, e-mail efsec@ep.cted.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. EFSEC is not a listed agency under RCW 34.05.328 (5)(a)(i).

June 23, 2004
Allen J. Fiksdal
EFSEC Manager

Chapter 463-06 WAC

~~((GENERAL ORGANIZATION))~~ AGENCY OPERATIONS AND PUBLIC RECORDS

AMENDATORY SECTION (Amending WSR 98-01-079, filed 12/12/97, effective 1/12/98)

WAC 463-06-010 (~~**Organization of this title.**~~) **Purpose.** (~~This title (Title 463 WAC) contains the regulations by which the energy facility site evaluation council (hereafter, the council) functions under state and federal law.~~

~~Chapter 463-06 WAC contains general informational provisions relating to agency operation and public records handling which are required by the state Administrative Procedure Act and state laws relating to public records.~~

~~Chapter 463-10 WAC contains definitions of terms used throughout this title.~~

~~Chapter 463-14 WAC sets forth a number of significant policy and interpretive provisions relating to the scope and application of chapter 80.50 RCW and these rules.~~

~~Chapter 463-18 WAC deals with procedures for the conduct of business at regular and special council meetings.~~

~~Chapter 463-22 WAC sets forth procedures to be followed when a request for a potential site study is submitted under RCW 80.50.175.~~

~~Chapter 463-26 WAC sets forth procedures governing the public hearings referred to in RCW 80.50.090 (1), (2), and (4).~~

~~Chapter 463-28 WAC sets forth the council's procedures in determining whether to recommend that the state preempt local land use plans or zoning ordinances for a site.~~

~~Chapter 463-30 WAC contains procedural provisions governing adjudicative proceedings held pursuant to RCW 80.50.090(3).~~

~~Chapter 463-34 WAC outlines procedures for rule making and for obtaining declaratory orders from the council.~~

~~Chapter 463-36 WAC sets forth the council's procedures in amending or terminating a site certification agreement.~~

~~Chapter 463-38 WAC contains procedure and guidelines relating to issuance of permits to discharge pollutants into Washington waters pursuant to federal law.~~

~~Chapter 463-39 WAC provides the basic framework for the conduct of the council's responsibilities for air pollution prevention and control.~~

~~Chapter 463-42 WAC embodies council procedures and guidelines governing preparation of applications for energy facility site certification.~~

~~Chapter 463-43 WAC sets forth requirements for preparation and processing of applications which qualify for expedited processing.~~

~~Chapter 463-47 WAC implements the statewide SEPA rules in chapter 197-11 WAC.~~

~~Chapter 463-50 WAC defines guidelines for the use of independent consultants pursuant to RCW 80.50.070 and 80.50.175.~~

~~Chapter 463-54 WAC sets forth procedures and guidelines for performance of surveillance monitoring by the council pursuant to RCW 80.50.040(11).~~

~~Chapter 463-58 WAC contains rules relating to independent consultant fees for potential site study, application processing, and compliance determination.) The purpose of this chapter is to describe the council and set out general information on agency operations and implementation of the public records provisions of chapter 42.17 RCW.~~

AMENDATORY SECTION (Amending WSR 98-01-078, filed 12/12/97, effective 1/12/98)

WAC 463-06-020 Description of organization. (1) The council is a state agency authorized by chapter 80.50 RCW.

(2) The voting membership of the council consists of ((the authorized representatives)) directors, administrators, or their designee of the member agencies listed in RCW 80.50.030. In addition, a voting county representative, a voting city representative, and a nonvoting port district representative may sit with the council under the circumstances described in RCW 80.50.030.

((2)) (3) The chair ((of the council)) is the person appointed by the governor with the advice and consent of the senate to a term coextensive with that of the governor pursuant to RCW 80.50.030.

(a) The chair has a vote on all matters before the council and has an office at the ((department of community, trade, and economic development)) council's office.

((3)) (b) Pursuant to RCW 80.50.030, the chair may designate a member of the council to serve as acting chair. The acting chair shall remain entitled to vote on any proposed council action and shall continue to fulfill his or her responsibilities under RCW 80.50.030 (3) through (5).

(c) The chair or a designee executes all official documents, contracts and other materials on behalf of the council.

(d) The chair or any member of the council may perform such duties as are specifically authorized and directed by the council, not in conflict with RCW 80.50.040.

(4) The department of community, trade, and economic development provides administrative services and staff to the council.

AMENDATORY SECTION (Amending WSR 98-01-078, filed 12/12/97, effective 1/12/98)

WAC 463-06-030 Council office—Business hours. The council office is currently located at ((the Department of Community, Trade, and Economic Development,)) 925 Plum Street S.E., Olympia, Washington. It is open each day for the transaction of business from 8:00 a.m. to 5:00 p.m., Saturdays, Sundays, and legal holidays excepted. Notices, applications, business correspondence, or other communication should be sent to the council office. The council's mailing address is P.O. Box 43172, Olympia, WA 98504-3172.

AMENDATORY SECTION (Amending WSR 92-09-013, filed 4/2/92, effective 5/3/92)

WAC 463-06-050 General method by which operations are conducted. (1) In general, the council reaches major policy and operational decisions through formal council action at ((regular and special)) meetings held pursuant to the Open Public Meetings Act, the state Administrative Procedure Act, or other applicable laws.

(2) In some circumstances, the chair may perform duties which are specifically authorized by the council.

(3) Day-to-day administration is handled by the council manager and staff.

(4) The council manager is responsible for implementing the decisions of the council and for directing the staff that supports the council.

(5) The council staff shall assist applicants in identifying issues presented by the application, review all information submitted, and recommend resolutions to issues in dispute that would allow site approval and may make recommendations to the council.

(6) The council staff are not parties to adjudicative proceedings conducted under chapter 34.05 RCW.

AMENDATORY SECTION (Amending Order 103, filed 11/4/76)

WAC 463-06-060 How to obtain public records ((available)). (1) All public records of the council are available for public inspection and copying at the council office ((pursuant to)), during regular business hours, in accordance with chapter 42.17 RCW and these rules, except as otherwise provided by ((RCW 42.17.310 or any superseding)) law.

(2) The public may request public records through the following mechanisms:

(a) Mail. Requests by mail shall be addressed to the council's mailing address: The Energy Facility Site Evaluation Council, P.O. Box 43172, Olympia, WA 98504-3172. The front of the envelope shall conspicuously state: "Public Records Request."

(b) E-mail. As of the date these rules are promulgated, the council's e-mail address is: efsec@ep.cted.wa.gov. This e-mail address may change without notice. The subject line of e-mail requests shall state: "Public Records Request."

(c) In person. In-person requests shall be made at the council's office, 925 Plum Street S.E., Olympia, Washington, or as such office may subsequently be relocated, during regular business hours.

(d) Fax. Faxed requests shall be accompanied by a cover sheet that conspicuously states: "Public Records Request."

AMENDATORY SECTION (Amending WSR 92-09-013, filed 4/2/92, effective 5/3/92)

WAC 463-06-070 Public records officer. The council's public records officer is the council manager, or designee, who is responsible for implementation of these and other applicable regulations regarding public records. ((Correspondence regarding public records is to be addressed to the public records officer.))

AMENDATORY SECTION (Amending Order 103, filed 11/4/76)

WAC 463-06-080 Contents of requests for public records. ((Public records may be inspected and copied by members of the public when a request is made in writing which reflects the following information:

(1) Name of the person requesting the records; and

(2) The day on which the written request was prepared or submitted; and

(3) The nature of the request (to the extent that this may expedite compliance); and

(4) If the matter requested is indexed, an appropriate index reference; or

(5) If the requested matter is not identifiable by reference to the current index, an adequate description of the record requested; and

(6) A prominent statement that the request is being made pursuant to chapter 42.17 RCW and these regulations.)) Chapter 42.17 RCW requires the council to prevent invasions of privacy, protect public records from damage or disorganization, prevent excessive interference with its essential functions, and prevent unreasonable disruptions of operations. Accordingly, the public may inspect and copy public records upon compliance with the following procedures:

(1) A member of the public who seeks a public record shall make a written request. The purpose of requiring written requests is to assist the council in tracking, managing and responding to the request in a timely and orderly fashion.

(2) No particular form of writing is required so long as the request complies with WAC 463-06-060 and contains the following information:

(a) Name, mailing address, and telephone number of the requesting party;

(b) The date on which the written request is made;

(c) Identification of the record requested with sufficient particularity that the council can identify the record and make it available. Such identifying information should, if possible, include the title, subject matter, and date of the record;

(d) A signed statement that the records will not be used for commercial purposes if a list of individuals is being requested, or for any use prohibited by law; and

(e) A prominent statement that the request is being made pursuant to chapter 42.17 RCW and these regulations.

(3) To facilitate processing the request, the requesting party should also include:

(a) Either a fax number or an e-mail address or both.

(b) A reference to the record as it is described in the current public record index maintained by the council.

AMENDATORY SECTION (Amending Order 103, filed 11/4/76)

WAC 463-06-090 Staff assistance. ((It is the obligation of the staff to assist requesters in identifying the public record requested. Staff members who are dealing with requests will make a sincere effort to respond to each initial request within two working days of first receipt.)) The council staff shall provide assistance to help persons requesting records to identify the records they seek. The staff may ask the requesting party to clarify what records are being sought.

AMENDATORY SECTION (Amending Order 103, filed 11/4/76)

WAC 463-06-110 ((Fees for)) Copying and fees. ((No fees are charged for inspection of public records. Requestors will be charged a fee not to exceed twenty five cents per page of copy for use of the council's copy equipment in cases where no significant staff time is taken up with the request. In cases where significant staff time is taken up with the request, copying costs shall include the cost of said staff time. Charges for costs of providing records shall be submitted and paid prior to delivery of documents; provided that this advance payment requirement shall not be required of other government agencies or parties or intervenors in proceedings before this council.)) (1) Copying. The council shall make copies on the council's copy equipment when doing so will not unreasonably disrupt the council's operations or cause excessive interference with other essential functions. If it is determined that making copies will disrupt the council's operations, an alternative schedule will be developed, or other arrangements for copying will be made.

(2) Fees.

(a) The council shall not impose a fee for locating documents, for making them available, or for inspection of records by the public.

(b) The council may charge up to fifteen cents per page fee for copies of public records provided.

(c) The council, at its option, shall not provide copies unless the associated fees have been paid in full prior to delivery of documents; provided that this advance payment requirement shall not apply to other government agencies or

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tribes or to parties or intervenors in proceedings before the council.

AMENDATORY SECTION (Amending Order 103, filed 11/4/76)

WAC 463-06-120 ~~((Determination of exempt status))~~ Disclosure procedure. ~~((Determination whether a requested record is exempt under the provisions of RCW 42.17.310 will be made in each instance.))~~ (1) In accordance with RCW 42.17.320, within five business days of receiving a public records request, the council shall respond by:

- (a) Providing the records;
- (b) Acknowledging the council has received the request and providing a reasonable estimate of the time the council will require to respond; or
- (c) Denying the record request, as set out in subsection (4) of this section.
- (2) The council shall review the requested public records prior to disclosure.
- (3) If the records do not contain materials exempt from public disclosure, the council shall disclose the records.
- (4) If the records contain materials exempt from public disclosure, the council shall deny disclosure of the exempt materials and disclose any remaining, nonexempt materials. At the time of denial, the council shall clearly specify in writing the reasons for denial, including a statement of the specific exemptions or reason for denial of disclosure.

AMENDATORY SECTION (Amending WSR 92-09-013, filed 4/2/92, effective 5/3/92)

WAC 463-06-150 Review of denials. ~~((Any person is entitled to review of a public record request denial if written request for review is promptly made. The request should specifically refer to the written statement constituting the denial. Any such written request is to be promptly referred to the council manager who shall either affirm or reverse the denial. The council manager may request a special meeting of the council to review the denial if such action is requested in writing and is otherwise warranted.))~~ For the purpose of judicial review, final agency action is deemed to have occurred at the end of the second business day after the requesting party received notification of a denial of inspection.

AMENDATORY SECTION (Amending Order 103, filed 11/4/76)

WAC 463-06-170 Records index. The council shall maintain(s) and make available for public inspection an index of those classes of records described in RCW 42.17.-260 ~~((which))~~. The index is available for public inspection and copying.

- (1) Form and content. The index shall be maintained in electronic form with copies available on paper. The index shall contain topic headings.
- (2) Location and availability. The index shall be available to the public under the same rules and on the same conditions as are applied to other public records.
- (3) Schedule for revisions and updates. The council shall revise and update the index annually.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 463-06-130 Deletion of identifying details.
- WAC 463-06-140 Written denials.
- WAC 463-06-160 Time for completion of review.

AMENDATORY SECTION (Amending WSR 98-01-080, filed 12/12/97, effective 1/12/98)

WAC 463-10-010 Definitions. Except where otherwise indicated in the following chapters, the following terms have the meaning shown:

- (1) "Council" ~~((refers to))~~ means the energy facility site evaluation council created pursuant to chapter 80.50 RCW and, where appropriate, to the staff of the council.
- (2) "Applicant" means the person or entity making application for a certification or permit covered by this title.
- (3) "Adjudicative proceeding" means a proceeding conducted pursuant to RCW 80.50.090(3) and the state Administrative Procedure Act.
- (4) "Certificate holder" means a person or entity who is signatory to a site certification agreement, which has been ~~((approved by the council and))~~ signed by the governor, and who is bound by ~~((the))~~ its terms ~~((therein))~~.
- (5) "Chair" means the person appointed by the governor pursuant to RCW 80.50.030.
- (6) "Council manager" means the individual who handles day-to-day administration for the council, administers the decisions of the council, and directs the staff that supports the council.
- (7) "Site certification agreement (SCA)" means the agreement between the state of Washington and the applicant that prescribes the conditions required for construction and operation of an energy facility.
- (8) "Rule" as used herein, includes the terms "agency order," "directive" or "regulation" in accordance with RCW 34.05.010(16).

AMENDATORY SECTION (Amending Order 104, filed 11/4/76)

WAC 463-14-010 Purpose ~~((of this chapter))~~. The purpose of this chapter is to publicize significant policy determinations and interpretations by which the council is guided in implementing chapter 80.50 RCW and this title.

AMENDATORY SECTION (Amending Order 104, filed 11/4/76)

WAC 463-14-020 Need for energy facilities—Legislative intent binding. RCW 80.50.010 requires the council "to recognize the pressing need for increased energy facilities." In acting upon any application for certification, the council action will be based on the policies and premises set

forth in RCW 80.50.010 (~~((1), (2), and (3))~~) including, but not limited to:

- (1) Enhancing the environment and the esthetic and recreational benefits of the air, water and land resources;
- (2) Promoting air cleanliness; and
- (3) Providing abundant power at reasonable cost.

AMENDATORY SECTION (Amending WSR 91-03-090, filed 1/18/91, effective 2/18/91)

WAC 463-14-030 Public meetings and hearings policy for application reviews. (~~RCW 80.50.090 requires a minimum of two public hearings concerning each site for which certification is sought. The first of these is the local public hearing described in RCW 80.50.090 (1) and (2) where the council is obligated~~) The council encourages, and will provide for, public participation in its public meetings and hearings during reviews of applications for site certification as afforded by law and rule. The following sets forth the public participation in those meetings and hearings required in RCW 80.50.090.

(1) The public informational hearing as prescribed in RCW 80.50.090(1) shall be held in the county of the proposed site. All persons shall be afforded an opportunity to comment to the council regarding the proposed site.

(2) The public land use consistency hearing as prescribed in RCW 80.50.090(2) shall be held in the county where the proposed site is located to determine whether or not the proposed use of the site is consistent and in compliance with city, county or regional land use plans (~~(or)~~) and zoning ordinances at the time of application. (~~However, in order to foster general public comment on the proposed site, the council will allow general public comment at such local public hearings, wherever possible. The council must also conduct a second~~) If the proposed site is located in more than one county, a land use consistency hearing shall be held in each county. The council shall limit public testimony at this hearing to the issue of consistency and compliance with city, county, or regional land use plans and zoning ordinances.

(3) Although all persons desirous of participating may not be accorded "party" status in the public hearing held as an adjudicative proceeding under chapter 34.05 RCW (~~Although all persons desirous of participating may not be accorded "party" status in this proceeding~~) prior to preparation of any recommendation to the governor, the council, at times and places designated by the council, upon compliance with reasonable procedures, shall allow any person desiring to be heard (~~shall be allowed~~) to speak in favor of or in opposition to the proposed (~~facility after the close of the evidentiary hearing but prior to preparation of any recommendation to the governor~~) site.

(4) The council views the provisions of RCW 80.50.090(4) as authorizing it to conduct additional public hearings (~~of either the~~) as "~~(local)~~ public informational hearings," "public land use consistency hearings" or "adjudicative proceedings." (~~variety~~) The council may also hold public meetings concerning the application for site certification.

AMENDATORY SECTION (Amending Order 104, filed 11/4/76)

WAC 463-14-050 Preemption. Chapter 80.50 RCW operates as a state preemption of all matters relating to energy facility sites. Chapter 80.50 RCW certification is given in lieu of any permit, certificate, or similar document which might otherwise be required by state agencies and local governments.

AMENDATORY SECTION (Amending WSR 91-03-090, filed 1/18/91, effective 2/18/91)

WAC 463-14-080 EFSEC deliberative process. RCW 80.50.100 requires the council to report to the governor its recommendation (~~as to the~~) of approval or rejection of an application for certification. In order for the council to develop such a recommendation, it shall (~~utilize a deliberative process for analysis and evaluation of an application to determine compliance with the intent and purpose of chapter 463-42 WAC. The council will~~) use wherever applicable the following deliberative process:

(1) Evaluate an application to determine compliance with chapter 80.50 RCW and chapter 463-60 WAC;

(2) Contract for an independent consultant study of the application (~~An environmental impact statement also will be adopted.~~

The council during the deliberative process will);

(3) Conduct a review under the State Environmental Policy Act;

(4) Conduct an (~~extensive public hearing as an~~) adjudicative proceeding for the presentation of evidence on the application (~~The council will~~);

(5) Conduct one or more sessions for the taking of public testimony concerning the proposed project (~~The council will evaluate~~);

(6) Consider public comments received (~~as part of the environmental review. The council throughout all of the deliberative process will~~);

(7) Consider any laws or ordinances, rules or regulations, which may be preempted by certification.

The council (~~in open session~~), when fully satisfied that all issues have been adequately (~~discussed~~) reviewed, will consider and by majority decision will act on the question of approval or rejection of an application.

NEW SECTION

WAC 463-14-100 Citations. As used in Title 463 WAC citations to state statutes and regulations include such laws as they now exist or as hereafter amended.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 463-14-060

Open meetings with full discussion.

PROPOSED

Chapter 463-18 WAC

~~((PROCEDURE REGULAR AND SPECIAL))~~
COUNCIL MEETINGS AND PROCEEDINGS

PROPOSED

AMENDATORY SECTION (Amending Order 105, filed 11/4/76)

WAC 463-18-010 Purpose ~~((of this chapter))~~. This chapter delineates procedures to be followed ~~((in the conduct of council business at regular and special))~~ at meetings of the council. Business conducted by the council may fall within the scope of the Open Public Meetings Act, chapter 42.30 RCW, or the Administrative Procedure Act, chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 91-03-090, filed 1/18/91, effective 2/18/91)

WAC 463-18-020 Governing procedure. ~~((Council business at regular and special meetings is conducted according to Roberts Rules of Order except as suspended by majority vote. To the extent that any adjudicative proceeding is dealt with at regular or special meeting of the council, it is to be governed by the procedures set forth in chapters 463-30 and 463-38 WAC.))~~ The following procedures shall apply to proceedings under the Open Public Meetings Act, chapter 42.30 RCW and rule-making proceedings under the Administrative Procedure Act, chapter 34.05 RCW:

(1) A majority of the voting council members constitutes a quorum for the conduct of council business.

(2) All council decisions shall be transacted by motion. Motions may be made by any council member and shall require a second.

(3) Voting on all motions shall be by voice vote unless a division is called for, in which case the chair shall call the roll by agency and record the votes of each voting member present, "yea" or "nay."

(4) The order of business shall be conducted as prescribed by the agenda.

(a) The council manager shall prepare each meeting's agenda in consultation with the chair.

(b) The council may modify a meeting's agenda.

AMENDATORY SECTION (Amending WSR 98-01-084, filed 12/12/97, effective 1/12/98)

WAC 463-18-050 ~~((Special meetings))~~ Open Public Meetings Act proceedings. The following requirements apply to those portions of the council's business that fall within the scope of the Open Public Meetings Act, chapter 42.30 RCW:

(1) Other than executive sessions, the council's meetings are open to the public.

(2) Regular meetings. Because the council does not hold meetings in accordance with a periodic schedule declared by statute or rule, the council's meetings are not "regular meetings" within the meaning of the Open Public Meetings Act.

(3) Special meetings.

(a) The chair or a majority of the voting members of the council may call a special meeting ~~((may be called))~~ at any

time ~~((by the chair or by a majority of the members of the council))~~ in accordance with RCW 42.30.080 by delivering written notice personally or by mail ~~((written notice))~~ to each council member; and to each local newspaper of general circulation and to each local radio or television station which has on file a written request to be notified of such special meeting ~~((s-ef))~~ or of all special meetings. Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the ~~((EFSEC))~~ council manager a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

(b) In addition to the special meeting notice requirements under RCW 42.30.080 described in subsection (4) of this section, the council shall, on or before January of each year, fix the time and place of the special meetings it proposes to hold during the upcoming calendar year and publish a schedule of those meetings in the Washington State Register. The council need not publish in the Register notice of any change from such meeting schedule although it may, in its discretion, elect to do so. In addition to the scheduled special meetings published in the Washington State Register, the council may hold other special meetings without publication in the Register.

(4) Executive sessions. The chair or a majority of the voting members of the council may call an executive session at any time in accordance with RCW 42.30.110.

NEW SECTION

WAC 463-18-090 Adjudicative proceedings. Adjudicative proceedings required by RCW 80.50.090(3) shall be governed by the Administrative Procedure Act, chapter 34.05 RCW, and chapter 463-30 WAC.

NEW SECTION

WAC 463-18-100 Rule-making proceedings. Rule-making proceedings shall be governed by the Administrative Procedure Act, chapter 34.05 RCW.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 463-18-030 Quorum.

WAC 463-18-040 Delegation of duties.

- WAC 463-18-060 Procedure in the absence of the chairman.
- WAC 463-18-070 Council duties of acting chairman.
- WAC 463-18-080 County, city and port district representatives—Participation.

Chapter 463-22 WAC

~~((PROCEDURE AND GUIDELINES—))~~ **POTENTIAL SITE STUDIES**

AMENDATORY SECTION (Amending Order 106, filed 11/4/76)

WAC 463-22-010 Purpose ~~((of this chapter))~~. This chapter sets forth procedures and guidelines for processing potential site(s) studies pursuant to RCW ~~((80.50.170 and))~~ 80.50.175.

AMENDATORY SECTION (Amending Order 106, filed 11/4/76)

WAC 463-22-020 Potential site study request—Where submitted. Requests shall be submitted to the energy facility site evaluation council at the council office in writing.

AMENDATORY SECTION (Amending Order 106, filed 11/4/76)

WAC 463-22-030 Potential site study—Fee. ~~((A))~~ An initial fee of \$10,000 shall accompany the study request and shall be a condition precedent to any action by the council. Payment shall be made by a cashier's check payable to the state treasurer.

AMENDATORY SECTION (Amending Order 106, filed 11/4/76)

WAC 463-22-050 Retention of consultant. Upon ~~((determining that the request is complete))~~ receipt of a request for a potential site study, the council ~~((will))~~ shall commission an independent consultant of its choice to study and report in writing to the council on the potential site. The report of study ~~((will))~~ shall set forth a general analysis of the potential environmental impact of the proposed energy facility and ~~((will))~~ shall identify significant areas of environmental concern. The study may also encompass whatever other matters the council and potential applicant deem essential for an adequate appraisal of the potential site and potentially impacted areas surrounding or adjacent to the site.

AMENDATORY SECTION (Amending Order 106, filed 11/4/76)

WAC 463-22-090 Additional costs procedure. ~~((In the event that the council determines that the initial fee of \$10,000 is insufficient to adequately fund the potential site study;))~~ The council shall ~~((so advise))~~ provide the potential

applicant ~~((and shall furnish))~~ an estimate of the ~~((supplemental fees))~~ full cost needed to complete the study including costs for consultants, council staff, council members, and other such expenses that are deemed reasonable by the council. In no event shall the study be allowed to continue if the potential applicant has not agreed to pay the cost thereof.

NEW SECTION

WAC 463-22-100 Public information meeting. During the potential site study, the council may hold a public information meeting in the county or counties within whose boundaries the site of the proposed energy facility is located, or as close to the proposed site as practicable. The council shall publish notice of the meeting in local daily or weekly news publications. This public information meeting shall not be in lieu of the requirements of RCW 80.50.090.

Chapter 463-26 WAC

~~((PROCEDURE—INITIAL PUBLIC HEARING AND))~~ **PUBLIC ~~((INFORMATION))~~ INFORMATIONAL MEETING AND LAND USE HEARING**

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-26-010 Purpose ~~((of this chapter))~~. This chapter sets forth the procedures to be followed in the conduct of the ~~((initial public hearing held pursuant to RCW 80.50.090(1) and the))~~ public informational meeting pursuant to RCW 80.50.090(1) and as described in WAC ~~((463-26-130))~~ 463-26-025, and the public land use hearing held pursuant to RCW 80.50.090(2).

AMENDATORY SECTION (Amending Order 78-8, filed 8/28/78)

WAC 463-26-020 Notification of local authorities. Before ~~((scheduling the initial public hearing))~~ conducting either the public informational meeting under RCW 80.50.090(1) or the public land use hearing under RCW 80.50.090(2), the council will notify the legislative authority in each county, city and port district within whose boundaries the site of the proposed energy facility is located.

NEW SECTION

WAC 463-26-025 Public informational meeting. The council shall conduct at least one public informational meeting concerning each application. At this meeting, the council will present the general procedure to be followed in processing the application including a tentative sequence of council actions, the rights and methods of participation by local government in the process, and the means and opportunities for the general public to participate.

(1) The applicant shall make a presentation of the proposed project utilizing appropriate exhibits. The presentation shall include: A general description of the project and the proposed site; reasons why the proposed site or location was

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selected; and a summary of anticipated environmental, social, and economic impacts.

(2) The general public shall be afforded an opportunity to present written or oral comments relating to the proposed project. The comments may become part of the adjudicative proceeding record.

(3) The informational meeting shall be held in the general proximity of the proposed project as soon as practicable within sixty days after receipt of an application for site certification.

NEW SECTION

WAC 463-26-035 Introduction of counsel for the environment. The council shall invite the counsel for the environment to be present at the public informational meeting. Counsel for the environment shall be introduced and afforded an opportunity to explain his or her statutory duties under chapter 80.50 RCW.

AMENDATORY SECTION (Amending Order 78-8, filed 8/28/78)

WAC 463-26-050 Purpose for land use hearing. At the commencement of the ~~((initial))~~ public land use hearing, the council shall explain that the purpose of the ~~((initial))~~ hearing under RCW 80.50.090~~((1))~~(2) is to determine whether at the time of application the proposed facility ~~((is))~~ was consistent and in compliance with ~~((county or regional))~~ land use plans ~~((or))~~ and zoning ordinances ~~((and that this matter shall have priority))~~. Pursuant to RCW 80.50.020(15) "land use plan" means a comprehensive plan or land use element thereof adopted by a unit of local government under chapters 35.63, 35A.63, or 36.70 RCW. Pursuant to RCW 80.50.020(16) "zoning ordinance" means an ordinance of local government regulating the use of land and adopted pursuant to chapters 35.63, 35A.63, or 36.70 RCW or Article XI of the state constitution.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-26-060 Public announcement—Testimony. At the outset of the ~~((initial))~~ public land use hearing, the council shall publicly announce that opportunity for testimony by anyone shall be allowed relative to the consistency and compliance with ~~((county or regional))~~ land use plans ~~((or))~~ and zoning ordinances.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-26-090 Procedure where certificates affirming compliance with ~~((zoning ordinances or))~~ land use plans and zoning ordinances are presented. This rule contemplates that applicants will enter as exhibits, at the land use hearing, certificates from local authorities attesting to the fact that the proposal is consistent and in compliance with ~~((county or regional))~~ land use plans ~~((or))~~ and zoning ordinances. In cases where this is done, such certificates will be regarded as *prima facie* proof of consistency and compliance

with such land use plans and zoning ordinances ~~((or land use plans))~~ absent contrary demonstration by anyone present at the hearing.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-26-100 Procedure where no certificates relating to ~~((zoning ordinances or))~~ land use plans and zoning ordinances are presented. In cases where no certificates relating to ~~((zoning or))~~ land use plans and zoning ordinances are presented to the council, then the applicant ~~((will be required to demonstrate compliance with local zoning or land use plans as part of its presentation. Local authorities shall then be requested to testify on the question of consistency and compliance with county or regional))~~ and local authorities shall address compliance or noncompliance with land use plans or zoning ordinances.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-26-110 Determination regarding ~~((zoning or))~~ land use plans and zoning ordinances. ~~((Prior to the conclusion of the hearing,))~~ The council shall make a determination as to whether the proposed site is consistent and in compliance with land use plans ~~((or))~~ and zoning ordinances pursuant to RCW 80.50.090(2).

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 463-26-040	Adversary nature of hearings.
WAC 463-26-070	Introduction of counsel for the environment.
WAC 463-26-080	Explanation of entire certification process.
WAC 463-26-120	Initial determination subject to review.
WAC 463-26-130	Public information meeting.

Chapter 463-28 WAC

~~((PROCEDURE—))~~ STATE PREEMPTION

AMENDATORY SECTION (Amending Order 78-3, filed 6/23/78)

WAC 463-28-010 Purpose ~~((and scope))~~. This chapter sets forth procedures to be followed by the council in determining whether to recommend to the governor that the state preempt local land use plans or zoning ordinances for a site or portions of a site for an energy facility.

AMENDATORY SECTION (Amending Order 78-3, filed 6/23/78)

WAC 463-28-030 Determination of noncompliance—Procedures. If the council determines during the hearing required by RCW 80.50.090 that the site of a proposed energy facility or any portion of a site is not consistent and in compliance with ~~((existing))~~ land use plans or zoning ordinances in effect at the date of the application, the following procedures shall be observed:

(1) As a condition necessary to continue processing the application, it shall be the responsibility of the applicant to make the necessary application for change in, or permission under, such land use plans or zoning ordinances, and make all reasonable efforts to resolve the noncompliance.

(2) All council proceedings on the application for certification may be stayed at the request of the applicant during the period when the plea for resolution of noncompliance is being processed by local authorities.

(3) The applicant shall submit regular reports to the council regarding the status of negotiations with local authorities on noncompliance issues.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 463-28-090 Governing rules.

Chapter 463-30 WAC

~~((PROCEDURE—))~~ **ADJUDICATIVE PROCEEDINGS**

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-30-010 Purpose ~~((and scope of this chapter))~~. The purpose of this chapter is to set forth procedures by which adjudicative proceedings are to be conducted before the council under chapter 34.05 RCW. Except as indicated herein, the uniform procedural rules set forth in chapter 10-08 WAC shall not apply to adjudicative proceedings before the council.

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-30-020 Council conducted hearings and administrative law judges. The council ~~((may conduct))~~ is the presiding officer at adjudicative proceedings pursuant to chapters 34.05 and 80.50 RCW ~~((or it)).~~ The council may utilize an administrative law judge provided by the office of administrative hearings ~~((pursuant to chapter 34.12 RCW. In the event the council elects to conduct the hearing, a presiding officer shall be appointed and the hearing shall be governed by the regulations and procedures contained in this chapter and chapter 34.05 RCW, as applicable))~~ to facilitate conduct of administrative hearings and all matters related thereto. Administrative hearings shall be governed by chapter 34.05 RCW and this chapter.

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-30-050 Status of ~~((agencies and agency))~~ members in adjudicative proceedings. All state agencies and local governments having members on the council are deemed to be parties to any adjudicative proceeding before the council. For purposes of any adjudicative proceeding, however, the agency or local government representative on the council shall be deemed to be a member of the council and not a member of the agency or local government. ~~((It shall be proper for the agency representative on the council to))~~ Members of the council shall not communicate with employees of the represented agency or local government, ~~((excepting those agency employees))~~ who have participated in the proceeding ~~((in any manner))~~ or who are otherwise disqualified by RCW 34.05.455.

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-30-060 Definitions—Persons and parties. The terms "person" and "party" when used in this chapter shall have the following meanings. The term "person" shall be defined according to RCW 80.50.020(3). The term "party" shall mean and be limited to the following:

- (1) The "applicant" as defined in RCW 80.50.020(1).
- (2) Each "member agency" as ~~((defined))~~ specified in RCW 80.50.030 (3) through (6).
- (3) The "counsel for the environment" as defined in RCW 80.50.020(12).
- (4) Each person admitted to an adjudicative proceeding as an "intervenor," is a party only for the purposes and subject to any limitations and conditions specified in the council order granting intervention.

AMENDATORY SECTION (Amending WSR 98-01-084, filed 12/12/97, effective 1/12/98)

WAC 463-30-080 Commencement of adjudicative proceedings. Adjudicative proceedings shall commence upon issuance of a formal notice of hearing or prehearing conference. The notice shall be served upon all parties at least twenty days in advance of the initial hearing date, unless the council finds that an emergency exists requiring the hearing or prehearing conference to be held upon less notice.

The time and place of continued hearing sessions may also be set:

- (1) Upon the record without further written notice to the parties; or
- (2) By letter from the ~~((EFSEC))~~ council manager; or
- (3) By letter from the presiding officer.

In such instances, twenty days' prior notice is not required.

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-30-090 Publicity—Commencement of adjudicative proceedings. Upon the filing of an application for certification, the council shall prepare an appropriate

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statement for dissemination to the news media which shall: (1) Describe all actions taken to date regarding the proposed site, and (2) state clearly that any person may be allowed to present timely written or oral argument for or against the proposed site to be certified and that advance notice within a reasonable time shall be required of persons who desire status as intervenors in accordance with WAC ((463-30-400)) 463-30-091.

NEW SECTION

WAC 463-30-091 Intervention. On timely application in writing to the council, intervention shall be allowed to any person upon whom a statute confers a right to intervene and, in the discretion of the council, to any person having an interest in the subject matter and whose ability to protect such interest may be otherwise impaired or impeded. All petitions to intervene shall be verified under oath by the petitioner, shall adequately identify the petitioner, and shall establish with particularity an interest in the subject matter and that the ability to protect such interest may be otherwise impaired or impeded. In exercising discretion with regard to intervention, the council shall consider whether intervention by the petitioner would unduly delay the proceeding or prejudice the rights of the existing parties. The council may establish a date after which petitions to intervene will not be considered except for good cause shown. When such a date has been established, the council will assure that adequate public notice is given.

NEW SECTION

WAC 463-30-092 Participation by intervenor. In general, it is the policy of the council to allow any intervenor broad procedural latitude. To the extent that the council determines that numerous intervenors might unduly delay the proceedings or prejudice the rights of existing parties, intervenor status may be conditioned upon assent by the prospective intervenor and counsel for the environment to allow the counsel for the environment to act as lead counsel for the balance of the hearing, where the intervenor's interests more closely align with those of the counsel for the environment. Intervenor status may also be conditioned upon allowance of other parties to act as lead parties, where appropriate. The council reserves the right to prescribe other limitations and conditions, where appropriate.

NEW SECTION

WAC 463-30-093 Participation by county, city and port district representatives. In any adjudicative site certification proceeding, designated council members representing local jurisdictions may discuss and, if authorized, vote only on issues affecting their jurisdictions. Issues shall be separated for purposes of discussion and voting.

AMENDATORY SECTION (Amending WSR 98-01-084, filed 12/12/97, effective 1/12/98)

WAC 463-30-120 Format, filing and service of documents. (1) (~~Filing. Filing of any document shall be deemed~~

~~complete only upon receipt by the EFSEC manager or other authorized agent of the council. Receipt in the council's telefax machine, or similar device, does not constitute filing. Unless in a particular case the council specifies a different number of copies, every pleading submitted to the council shall be filed with two copies. Filing a document with the council does not constitute service upon the office of the attorney general or any other party. Likewise, service on the office of the attorney general does not constitute a filing with the council.~~

(a)) Format.

(a) All pleadings, motions, and other documents (including prefiled testimony) filed with the council shall be legibly written or printed. The use of letter size paper (8 1/2 by 11 inches) is mandatory. The writing or printing shall appear on two sides of the page.

(b) The requirements of (a) of this subsection are not mandatory for exhibits but the use of exhibits that comply with (a) of this subsection is encouraged if it does not impair legibility.

(2) Filing.

(a) In each case, the council will specify the number of copies required for motions, related pleadings, and exhibits which must be filed with the council.

(b) Document shall be deemed filed only upon actual receipt by the council manager or designee during office hours.

(c) Faxes.

(i) As used in this rule, "fax" means electronic telefacsimile transmission.

(ii) Except as specified in (c)(iii) of this subsection, receipt of a document in the council's fax machine does not constitute filing.

(iii) For good cause shown, a party may request and the council manager or designee may in his or her sole discretion grant authority to file a document by fax.

(iv) Filing by fax is perfected when a complete legible copy of the document is reproduced on the council manager's fax machine during the council's normal office hours, so long as the council receives the required number of nonfaxed originals on the next successive business day. If a transmission of a document by fax commences after the council's normal office hours, the document shall be filed on the next successive business day.

(v) Any document filed by fax must be accompanied by a cover page or other form identifying the party making the transmission, listing the address, telephone, and fax number of the party, identifying the adjudicative proceeding to which the document relates, and indicating the date faxed and total number of pages included in the transmission.

(vi) The party attempting to file a document by fax bears the risk that the document will not be timely received or legibly printed, regardless of the cause. If a fax is not received in legible form, it will be considered as if it had never been sent.

(d) E-mail. The filing of documents with the council by electronic mail is not authorized without the express approval of the council manager or designee and under such circumstances as the council manager or designee allows.

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(e) Filing a document with the council does not constitute service upon the office of the attorney general or any other party. Likewise, service on the office of the attorney general does not constitute a filing with the council.

(f) Applications. Applications for a site certificate shall be filed in the manner prescribed by the rules governing such applications.

~~((b) Other pleadings. All pleadings shall be legible and a copy shall be served upon each party to the proceeding.~~

~~(2)) (3) Service.~~

(a) A copy of each pleading, motion, and document filed with the council shall be simultaneously served upon each party.

(b) Service by parties.

(i) Service of pleadings, motions, and other documents by parties shall be made by delivering one copy to each party (A) in person, (B) by mail, ((properly addressed with postage prepaid,) (C) by commercial parcel delivery company ((properly tendered with fees prepaid, or by telefacsimile transmission)) or (D) for documents not exceeding twenty-five pages, if authorized by the council manager or designee, by fax, where originals are mailed simultaneously.

(ii) Except as otherwise provided, when any party has appeared by attorney or other authorized representative, service upon such attorney or representative will be deemed valid service upon the party ((of all future pleadings before the council)). ((Service of pleadings by mail shall be complete when a true copy of the document is properly addressed and stamped and deposited in the United States mail. Service by commercial parcel delivery company shall be complete when accepted for delivery by the company.

~~(b)) (iii) Service of documents shall be deemed complete upon (A) personal delivery, (B) deposit in the United States mail properly addressed with appropriate first-class postage prepaid, (C) acceptance for delivery by a commercial parcel delivery company, properly tendered with fees prepaid, or (D) production by the fax machine of a confirmation of transmission by fax, with simultaneous deposit of the originals in the United States mail, properly addressed with appropriate first-class postage prepaid.~~

(c) Service by the council. All notices, ((findings of fact, decisions, and)) orders and other documents required to be served by the council may be served by delivery of one copy to each party (i) in person, (ii) by mail, (iii) by commercial parcel delivery company, ((properly tendered with fees prepaid, or by telefacsimile transmission)) or (iv) by fax, when originals are mailed simultaneously. Service of documents ((shall be complete when a true copy of the document, properly addressed and stamped, is deposited in the United States mail with first class postage affixed, or accepted for delivery by the parcel delivery company)) by the council shall be deemed complete upon (A) personal delivery, (B) deposit in the United States mail properly addressed with appropriate first-class postage prepaid, (C) acceptance for delivery by a commercial parcel delivery company, properly tendered with fees prepaid, or (D) production by the council's fax machine of a confirmation of the transmission by fax, with simultaneous deposit of the originals in the United States mail, properly addressed with appropriate first-class postage prepaid.

~~((e)) (d) Certificate of service. There shall appear on or in a separate document accompanying the original of every pleading when filed with the council in accordance with this subsection, either an acknowledgment of service, or the following certificate:~~

"I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by authorized method of service pursuant to WAC 463-30-120 ~~((2)(a))~~ (3).

Dated at this day of
(signature)

(4) Courtesy copies. Parties are encouraged to send courtesy copies of documents to the council and all other parties via electronic mail.

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-30-200 Subpoenas—Practice. (1) Subpoenas shall be issued and enforced, and witness fees paid, as provided in RCW 34.05.446.

(2) Every subpoena shall identify the party causing issuance of the subpoena and shall state the name of the agency and the title of the proceeding and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under his or her control at the time and place set for the hearing.

(3) A subpoena may be served by any suitable person over eighteen years of age, by exhibiting and reading it to the witness, or by giving him or her a copy thereof, or by leaving such copy at the place of his or her abode. When service is made by any other person than an officer authorized to serve process, proof of service shall be made by affidavit.

(4) The presiding officer, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may:

(a) Quash or modify the subpoena if it is unreasonable and oppressive; or

(b) Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(5) No subpoena shall be issued or given effect to require the attendance and testimony of, or the production of evidence by, any member of the council or any member of the council staff ~~((in any proceeding before the council)). For these purposes, the council's independent consultant is deemed a member of the council staff.~~

(6) The council shall ~~((only))~~ be responsible for paying only the witness fees of the witnesses which it subpoenas. Each subpoena shall bear the name of the party requesting or issuing the subpoena and the party responsible for paying the witness fees.

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-30-250 Stipulations ((and settlement)) of fact. ~~((1) Stipulations are encouraged. The parties to any~~

adjudicative proceeding before the council may, by stipulation in writing filed with the council or entered into the record, agree upon the facts or any portion thereof involved in the proceeding. This stipulation, if accepted by the council, shall be binding upon the parties thereto and may be used by the council as evidence at the hearing. The council may reject the stipulation or require proof by evidence of the stipulated facts, notwithstanding the stipulation of the parties.

(2) Before or after a formal hearing, parties to a proceeding may enter into discussions leading to a voluntary settlement. In furtherance of a voluntary settlement, the council may invite the parties to confer among themselves or with a designated person. Settlement conferences shall be informal and without prejudice to the rights of the parties. No statement, admission, or offer of settlement made at a settlement conference shall be admissible in evidence in any formal hearing before the council. Any resulting settlement or stipulation shall be stated on the record or submitted in writing and is subject to approval by the council.)) A stipulation is an agreement among parties intended to establish one or more operative facts in an adjudicative proceeding. The council encourages parties to enter stipulations of fact. The parties to an adjudicative proceeding before the council may agree to all of the facts or any portion of the facts involved in the proceeding. The parties to a stipulation may file it in writing or enter it orally into the record. A stipulation, if accepted by the council, is binding on the stipulating parties. The parties may present the stipulation as evidence at the hearing. The council may reject the stipulation or require proof of the stipulated facts, despite the parties' agreement to the stipulation.

NEW SECTION

WAC 463-30-251 Alternative dispute resolution. The council supports parties' informal efforts to resolve disputes when doing so is lawful and consistent with the public interest. Alternative dispute resolution (ADR) includes any mechanism to resolve disagreements, in whole or in part.

(1) Forms of ADR. Parties may agree to negotiate with other parties at any time without council oversight. The council may direct parties to meet or consult as provided in subsection (2) of this section, or may establish or approve a collaborative process as provided in subsection (3) of this section. The council may assign a mediator or facilitator to assist the parties. The council may also assign an arbitrator whose decision is subject to council review.

(2) Settlement conference. The council may invite or direct the parties to confer among themselves or with a designated person. Settlement conferences must be informal and without prejudice to the rights of the parties.

(3) Collaborative.

(a) Defined; membership. A collaborative is a form of ADR and is a council-sanctioned negotiation in which interested parties work with each other and representatives of council staff to achieve consensus on one or more issues assigned by the council or identified by the collaborative participants. Any interested party whose interests may be substantially affected by the result of the collaborative must be given an opportunity to participate. Collaborative participants must inform the council and seek approval if a collabo-

orative changes its membership or redefines the issues it will address.

(b) Communication with council. Communication between the council and collaborative participants may be through council staff assigned to serve as a third party neutral in the collaborative, or through the council manager, subject to agreement among the participants to the form and substance of any such communication.

(4) ADR guidelines. In any ADR process, the following apply unless all participants agree otherwise:

(a) The parties, as their first joint act, will consider any guidelines or directions by the council, and determine the ground rules governing the negotiations;

(b) No statement, admission or offer of settlement made during negotiations is admissible in evidence in any formal hearing before the council without the consent of the participants or unless necessary to address the process of the negotiations;

(c) To the extent permitted by law, parties may agree that information exchanged exclusively within the context of settlement negotiations will be treated as confidential as provided in a council protective order; and

(d) Participants in a council-sanctioned ADR process must periodically advise any nonparticipating parties and the council of any substantial progress made toward settlement. Participants must immediately advise the council if a council-sanctioned ADR process is without substantial prospects of resolving the issue or issues under negotiation.

NEW SECTION

WAC 463-30-252 Settlement. A settlement is an agreement among two or more parties. Applicants, member agencies, and the counsel for the environment may enter into a settlement concerning any matter. Intervenors may enter into a settlement agreement subject to any limits and conditions specified in the council's order granting intervention. Settlements are filed with the council as a proposed resolution of the issues addressed in the agreement.

(1) Full settlement. An agreement of all parties that would resolve all issues in a proceeding may be presented as a full settlement for council review.

(2) Partial settlement. An agreement of all parties on fewer than all issues in a proceeding may be presented as a partial settlement for council review, and remaining matters may be the subject of further council proceedings.

(3) Multiparty settlement. An agreement of some but not all parties on one or more issues may be offered as their position in the proceeding along with the evidence that they believe supports it.

(4) Notice to council. Parties must advise the council if they reach a full, partial, or multiparty settlement and may suggest preferred procedural alternatives for review of the settlement, subject to the requirements of WAC 463-30-253 and 463-30-254. The council will determine the appropriate procedure in each proceeding consistent with the requirements of WAC 463-30-253 and 463-30-254.

NEW SECTION

WAC 463-30-253 Settlement consideration procedure. The council must have a reasonable opportunity to hear parties' views on why a proposed settlement should be approved and adopted, to ask questions of the parties, and to conduct its processes in an orderly fashion. Parties must, therefore, consider the timing and the content of their settlement presentation to the council.

(1) Settlement presentation timing. Parties must file a proposed settlement that allows the council sufficient time for the filing, review, and approval of any filing.

(2) Settlement presentation contents. When filing a proposed settlement agreement, parties must also file supporting documentation sufficient to demonstrate to the council that the proposal is appropriate for adoption.

(a) Supporting documentation should include supporting evidence; a narrative outlining the scope of the settlement and its principal aspects; a statement explaining in detail why the proposal is appropriate for adoption; a summary of its costs and benefits; and a summary of legal points that bear on the proposed settlement. The documentation may be in the form of a memorandum, supporting prefiled testimony, brief, or other form that serves the same functions.

(b) Parties must make a brief presentation to the council concerning the proposed settlement and address any legal or factual matters associated with it. Each party to the settlement agreement must offer to present one or more witnesses to testify in support of the proposal and to answer questions. In the case of a contested settlement, parties opposed to the council's adoption of the proposal may offer to present one or more witnesses to testify or argue against the proposal.

NEW SECTION

WAC 463-30-254 Council discretion to accept or reject a proposed settlement or other agreement. The council will not delegate to parties the power to make decisions. The council retains the right to exercise its authority in every adjudicative proceeding to consider any proposed settlement or other agreement of the parties. The council may decide whether or not to consider a proposed settlement or agreement. If the council considers a proposed settlement or agreement, the council may accept it, reject it, or take any other action the council deems appropriate.

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-30-270 Prehearing conference. (1) The ~~((presiding officer))~~ council upon ~~((his or her))~~ its own motion or upon request of a party may direct the parties or their representatives to engage in a prehearing conference or conferences to consider:

- (a) Simplification of issues;
- (b) The necessity or desirability of amendments to the pleadings;
- (c) The possibility of obtaining stipulations, admissions of fact, and admissions of the genuineness of documents which will avoid unnecessary proof;

(d) Limitations on the number and consolidation of the examination of witnesses;

(e) Procedural matters;

(f) Distribution of written testimony and exhibits to the parties prior to the hearing;

(g) The disposition of petitions for leave to intervene in the proceeding filed pursuant to WAC ~~((463-30-400))~~ 463-30-091 may be ruled upon at a prehearing conference;

(h) Such other matters as may aid in the disposition or settlement of the proceeding including scheduling the hearing and determination of the sequence of the subject matter.

(2) Prehearing conferences may be held by telephone conference call or at a time and place specified by the ~~((presiding officer))~~ council.

(3) Following the prehearing conference, the presiding officer shall issue an order reciting the action taken at the conference, the amendments allowed to the pleadings, ~~((and))~~ the agreements made by the parties concerning all of the matters considered and other matters as appropriate. If no objection to ~~((such notice))~~ the order is filed within ten days after the date ~~((such notice))~~ the order is mailed, it shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(4) In any proceeding the ~~((presiding officer))~~ council may ~~((, at his or her discretion,))~~ conduct a conference prior to the taking of testimony, or may recess the hearing for such conference, for the purpose of carrying out the purpose of this section. The ~~((presiding officer))~~ council shall state on the record the results of such conference.

(5) Nothing in this section shall be construed to limit the right of the council to order a prehearing conference or other settlement procedure prior to issuance of a notice of hearing.

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-30-320 ~~((Entry of initial and final orders.))~~ **Preparation of recommendation to the governor.** Every ~~((decision and order whether initial or final))~~ recommendation to the governor shall:

(1) Be correctly captioned to identify the council and name of the proceeding;

(2) Identify all parties and representatives participating in the proceeding;

(3) Include a concise statement on the nature and background of the proceeding;

(4) Contain appropriate numbered findings of fact ~~((meeting the requirements of RCW 34.05.461));~~

(5) Contain appropriate numbered conclusions of law, including citations to statutes and rules relied upon;

(6) Contain ~~((an initial or final order))~~ a recommendation disposing of all contested issues;

(7) ~~((If applicable,))~~ Contain such other information deemed appropriate by the council;

(8) Contain a statement describing the parties' rights to reconsideration or other administrative relief.

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Chapter 463-34 WAC

AMENDATORY SECTION (Amending WSR 98-01-084, filed 12/12/97, effective 1/12/98)

WAC 463-30-335 Petition for reconsideration of recommendations to the governor. A petition for reconsideration of a ~~((final order under RCW 34.05.470))~~ recommendation to the governor shall be filed with the ~~((EFSEC))~~ council manager.

(1) The petition for reconsideration shall be filed with the council within twenty days of the date of service of the recommendation to the governor, unless a different place and time limit for filing the petition are specified in the recommendation to the governor in its statement describing available procedures for administrative relief. Copies of the petition shall be served upon all other parties or their representatives at the time the petition is filed.

(2) The petition for review shall specify the challenged portions of the recommendation to the governor and shall refer to the evidence of record and legal authority which is relied upon to support the petition.

(3) Any party may file an answer to a petition for review. The answer shall be filed with the council manager within fourteen days after the date of service of the petition and copies of the answer shall be served upon all other parties or their representatives at the time the answer is filed.

NEW SECTION

WAC 463-30-345 Recommendation—Transmittal to governor. Upon the adoption by the council of its recommendations as to the approval or disapproval of an application for certification, the council shall forward such recommendations to the governor.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 463-30-030 Use of the term "council."
- WAC 463-30-055 Applicant funding of council members salaries and fringe benefits for extended adjudications.
- WAC 463-30-280 Attendance by council members at prehearing conferences.
- WAC 463-30-330 Petition for review and replies.
- WAC 463-30-390 Recommendation—Transmittal to governor.
- WAC 463-30-400 Intervention.
- WAC 463-30-410 Participation by intervenor.
- WAC 463-30-420 Participation by county, city and port district representatives.

~~((PROCEDURE))~~ PETITIONS FOR RULE MAKING AND DECLARATORY ORDERS

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-34-010 Purpose ~~((and scope of this chapter))~~. This chapter sets forth procedures to be followed in petitions for rule making and for declaratory orders pursuant to chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-34-030 Petitions for rule making—~~((Form))~~ Content~~((s))~~ and filing. ~~((A))~~ (1) Petitions for adoption, amendment, or repeal of a rule may be filed pursuant to RCW 34.05.330 and shall ~~((generally adhere to the following form:~~

~~(1) At the top of the page, centered, shall appear the wording "before the energy facility site evaluation council." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for rule making." Opposite the caption shall appear the word "petition."~~

~~(2) The body of the petition shall be set out in numbered paragraphs:~~

~~(a) The first paragraph shall state the name and address of the petitioner and whether the petition seeks the adoption of a new rule or amendment or repeal of an existing rule.~~

~~(b) The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. If the petition seeks repeal of an existing rule, the rule proposed to be repealed shall be set forth in full.~~

~~(c) The third paragraph shall set forth concisely the reasons for the proposal and shall state the petitioner's interest in the subject matter of the rule. The petition should in subsequent paragraphs state a full explanation of reasons supporting the proposal.~~

~~(3) Petitions shall be dated and signed by the petitioner or its attorney. The original and two legible copies shall be filed with the council)) include the information required by WAC 82-05-020. In addition, petitioners are encouraged to include the information identified in WAC 82-050-020 (1)(c) and (2).~~

~~(2) Petitions for adoption, repeal, or amendment of a rule must be submitted in accordance with WAC 82-05-030.~~

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-34-050 Petitions for rule making—Consideration ~~((and disposition))~~. (1) In accordance with WAC 82-05-040, within a reasonable time of receipt of a petition for rule making, the council will send the petitioner an acknowledgment of receipt of the petition and the name and telephone number of the council's contact person.

(2) Each petition for the adoption, amendment, or repeal of a rule shall be considered by the council, and the council

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may, in its discretion, solicit comments or invite discussion concerning the matter prior to disposition of the petition.

~~((2) If the council denies the petition, the denial shall be in writing and shall be served upon the petitioner.))~~

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-34-060 Petitions for rule making—Disposition ~~((time))~~. In accordance with RCW 34.05.330 and WAC 82-05-040, within sixty days after receipt of the petition ~~((s submission))~~, the council shall deny the petition in writing, stating its reasons for the denial, and serve petitioner with a copy, or initiate rule-making proceedings.

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-34-070 Declaratory orders—Form, content, and filing. A petition for a declaratory order may be filed pursuant to RCW 34.05.240 to determine the applicability to a specified circumstance of a statute, rule, or order enforceable by the council and shall generally adhere to the following form:

(1) At the top of the page, centered, shall appear the wording "before the energy facility site evaluation council." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory order." Opposite the caption shall appear the words "petition for declaratory order."

(2) The body of the petition shall be set out in numbered paragraphs:

(a) The first paragraph shall state the name and address of the petitioning party.

(b) The second paragraph shall ~~((state))~~ identify all statutes, rules, orders, or ~~((statutes))~~ other legal requirements that ~~((may be brought into the))~~ are at issue ~~((by the petition))~~.

(c) Succeeding paragraphs shall set out the facts relied upon ~~((and))~~ by the ~~((reasons for granting its relief))~~ petitioner to make the showing required by RCW 34.05.240(1) and to support the petitioner's requested outcome.

(d) The concluding paragraph shall specify the ~~((relief))~~ outcome sought by the petitioner.

The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

(3) The original and two legible copies of the petition shall be filed with the council.

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-34-080 Declaratory orders—Procedural rights of persons in relation to petition. (1) In accordance with WAC 10-08-251, if a petition for a declaratory order is set for specified proceedings under RCW 34.05.240 (5)(b), the ~~((agency))~~ council shall give not less than seven days' advance written notice of the proceeding to the petitioner and all persons described in RCW 34.05.240(3). The notice shall

specify the time, date, place, and nature of the proceeding and shall describe how interested persons may participate.

(2) The council may order that RCW 34.05.410 through 34.05.494 and chapter 463-30 WAC shall apply in a proceeding under this section.

AMENDATORY SECTION (Amending WSR 90-05-018, filed 2/13/90, effective 3/16/90)

WAC 463-34-090 Declaratory orders—Disposition ~~((of petition))~~. In accordance with WAC 10-08-252, a declaratory order entered by the council or a decision by the council to decline to enter a declaratory order shall be in writing and shall be served upon the petitioner and all other persons described in RCW 34.05.240(3).

Chapter 463-36 WAC

~~((PROCEDURE—))~~ AMENDING, TRANSFERRING, OR TERMINATING A SITE CERTIFICATION AGREEMENT

AMENDATORY SECTION (Amending Order 87-2, filed 11/19/87)

WAC 463-36-030 Request for amendment. A request for amendment of ~~((an))~~ a site certification agreement shall be made in writing by a certificate holder to the council. The council will consider the request and determine a schedule for action at the next feasible council meeting. ~~((The council will then refer the question to committee for recommendation, determine a schedule for action, or take action upon the request.))~~ The council may, if appropriate and required for full understanding and review of the proposal, secure the assistance of a consultant or take other action at the expense of the certificate holder. The council shall hold one or more public hearing sessions upon the request for amendment at times and places determined by the council.

AMENDATORY SECTION (Amending Order 87-2, filed 11/19/87)

WAC 463-36-070 Approval by ~~((resolution))~~ council action. An amendment request which ~~((changes a technical provision or requirement within the terms of the SCA, and constitutes no substantial alteration))~~ does not substantially alter the substance of any provisions of the SCA, ~~((and))~~ or which is determined not to have ~~((an))~~ a significant detrimental effect upon the environment, shall be effective upon ~~((adoption))~~ approval by the council. Such approval may be in the form of a council resolution.

AMENDATORY SECTION (Amending Order 87-2, filed 11/19/87)

WAC 463-36-080 Approval by governor. An amendment which substantially alters the substance of any provision of the SCA or which is determined to have a significant detrimental effect upon the environment shall be effective upon the signed approval of the governor ~~((of Washington state)).~~

AMENDATORY SECTION (Amending WSR 92-23-012, filed 11/6/92, effective 12/7/92)

WAC 463-36-100 Transfer of a site certification agreement. ~~((1))~~ No site certification agreement, any portion of a site certification agreement, nor any legal or equitable interest in such an agreement issued under this chapter shall be transferred, assigned, or in any manner disposed of (including abandonment), either voluntarily or involuntarily, directly or indirectly, through transfer of control of the certification agreement or the site certification agreement owner or project sponsor without express council approval of such action. In the event a site certification agreement is to be acquired via a merger, leveraged buy-out, or other change in corporate or partnership ownership, the successor in interest must file a formal petition under the terms of this section to continue operation or other activities at the certificated site.

~~((2)(a))~~ (1) A certification holder seeking to transfer or otherwise dispose of a site certification agreement must file a formal application with the council including information about the new owner required by WAC ~~((463-42-065 and 463-42-075))~~ 463-60-015 and 463-60-075 that demonstrate the transferee's organizational, financial, managerial, and technical capability to comply with the terms and conditions of the original site certification agreement including council approved plans for termination of the plant and site restoration. The council may place conditions on the transfer of the certification agreement including provisions that reserve liability for the site in the original certification holder.

~~((b))~~ (2) If the certification holder is seeking an alternative disposition of a certificated site, the certification holder must petition the council for an amendment to its site certification agreement pursuant to the provisions of this chapter and gain council approval of its alternative disposition plan. In submitting a request for an alternative disposition of a certificated site, the certification holder must describe the operational and environmental effects of the alternative use of the site on the certified facility. If the proposed alternative use of the site is inconsistent with the terms and conditions of the original site certification agreement the council may reject the application for alternative use of the site.

(3) The council shall require any person who submits an application to acquire a site certification agreement under provisions of this section to file a written consent from the current certification holder, or a certified copy of an order or judgment of a court of competent jurisdiction, attesting to the person's right, subject to the provisions of chapter 80.50 RCW et seq. and the rules of this chapter, to possession of the energy facility involved.

(4) After mailing a notice of the pending application for transfer of the site certification agreement to all persons on its mailing list, the council shall hold an informational hearing on the application. Following the hearing the council may approve an application for transfer of the site certification agreement if the council determines that:

- (a) The applicant satisfies the provisions of WAC ~~((463-42-065 and 463-42-075))~~ 463-60-015 and 463-60-075;
- (b) The applicant is entitled to possession of the energy facility described in the certification agreement; and
- (c) The applicant agrees to abide by all of the terms and conditions of the site certification agreement to be transferred

and has demonstrated it has the organizational, financial, managerial, and technical capability and is willing and able to comply with the terms and conditions of the certification agreement being transferred.

(5) The council shall issue a formal order either approving or denying the application for transfer of the site certification agreement. If the council denies the request, it shall state the reasons for its denial.

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
463-36-010	463-66-010
463-36-020	463-66-020
463-36-030	463-66-030
463-36-040	463-66-040
463-36-050	463-66-050
463-36-060	463-66-060
463-36-070	463-66-070
463-36-080	463-66-080
463-36-090	463-66-090
463-36-100	463-66-100

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 463-36-010 Council policy.

NEW SECTION

WAC 463-38-005 Purpose. (1) This chapter establishes regulations specifying procedures and other rules which will be utilized by the council in implementing section 402 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The purpose of these regulations is to establish a state individual permit program, applicable to the discharge of pollutants and other wastes and materials to the surface waters of the state, which complies with the requirements of chapters 80.50 and 90.48 RCW, EPA, and applicable state laws and regulations.

(3) These regulations apply to:

- (a) Any energy facility for which a certification agreement has been executed pursuant to chapter 80.50 RCW et seq.; and
- (b) Any energy facility for which an application has been filed with the council for certification pursuant to chapter 80.50 RCW et seq.

(4) The authority for these regulations is based upon RCW 80.50.040(1), chapter 90.48 RCW, chapter 155, Laws of 1973, and the act.

PROPOSED

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-010 Definitions. As used in this chapter, the following terms shall have the meanings indicated below:

(1) ~~((The term))~~ "Act" means the Federal Water Pollution Control Act (FWPCA) as amended, ~~((Public Law 92-500))~~ (33 U.S.C. ~~((1314))~~ 1251, et seq.).

(2) ~~((The term))~~ "Administrator" means the administrator of the United States Environmental Protection Agency.

(3) ~~((The term "applicable effluent standards and limitations" means all state of Washington and federal effluent standards and limitations to which a discharge is subject under the act, including but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.~~

~~((The term))~~ "Applicable water quality standards" means all water quality standards of the state of Washington to which a discharge is subject under ~~((the act and which have been:~~

~~((a) Approved or permitted to remain in effect by the administrator pursuant to section 303(a) or section 303(e) of the act, or;~~

~~((b) Promulgated by the administrator pursuant to section 303(b) or section 303(e) of the act.~~

~~((The term))~~ state and federal law, including, but not limited to, those which are codified in chapters 173-200, 173-201A, and 173-204 WAC, and 40 CFR 131.36.

(4) "Applicant" shall mean any person who has applied for an NPDES permit pursuant to ~~((the act and section 402(b) thereof))~~ this chapter.

~~((The term))~~ (5) "Certification agreement" means that binding site certification agreement executed between an applicant under chapter 80.50 RCW and the state ~~((which embodies compliance with the siting guidelines adopted in RCW 80.50.050)), and shall contain the conditions set forth in the NPDES permit to be met prior to or concurrent with the construction or operation of any energy facility coming under chapter 80.50 RCW.~~

~~((The term "chairman"))~~ (6) "Chair" means the chairman of the energy facility site evaluation council.

(7) "Contiguous zone" means the entire zone established or to be established by the United States under Article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

(8) ~~((The term))~~ "Council" means the Washington state energy facility site evaluation council.

(9) ~~((The term))~~ "Council manager" means the individual holding the position of manager of the council.

(10) "Discharge of pollutant" and the term "discharge of pollutants" each mean:

(a) Any addition of any pollutant ~~((to navigable waters))~~ or combination of pollutants to surface waters of the state from any point source~~((:));~~

(b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source.

~~((The term "DOE"))~~ (11) "Domestic wastewater" means water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial

establishments or other places, together with such ground water infiltration or surface waters as may be present.

(12) "Domestic wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of domestic wastewater together with such industrial waste as may be present. In case of subsurface sewage treatment and disposal, the term is restricted to mean those facilities treating and disposing of domestic wastewater only from a septic tank with subsurface sewage treatment and disposal and an ultimate design capacity exceeding fourteen thousand five hundred gallons per day at any common point.

(13) "Ecology" means the Washington state department of ecology.

~~((The term))~~ (14) "Effluent limitations" means any restriction established ~~((pursuant to the act))~~ by the state of Washington or the administrator on quantities, rates and concentrations of chemical, physical, biological and other constituents which are discharged from point sources into ~~((navigable))~~ surface waters, the waters of the ~~((contiguous zone or the ocean))~~ state, including schedules of compliance.

~~((The term))~~ (15) "Energy facility" means any energy facility, as defined in RCW 80.50.014.

(16) "EPA" means the United States Environmental Protection Agency.

~~((The term "executive secretary" means the individual holding the position of executive secretary of the council.~~

~~((The term))~~ (17) "General permit" means a permit which covers multiple dischargers within a designated geographical area, in lieu of individual permits being issued to each discharger.

(18) "Governor" ~~((shall))~~ means the governor of the state of Washington.

~~((The term "minor discharge" means any discharge which:~~

(a) Has a total volume of less than 50,000 gallons on every day of the year;

(b) Does not affect the waters of any state other than Washington, and;

(c) Is not identified by the council, the regional administrator or by the administrator in regulations issued pursuant to section 307(a) of the act as a discharge which is not a minor discharge.

If there is more than one discharge from a facility and the sum of the volumes of all discharges exceeds 50,000 gallons on any one day of the year, then no discharge from the facility is a "minor discharge" as defined herein.

(16) The term "national data bank" means a facility or system established or to be established by the administrator for the purpose of assembling, organizing and analyzing data pertaining to water quality and the discharge of pollutants.

~~((The term))~~ (19) "Municipality" means a city, town, county, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Federal Water Pollution Control Act (FWPCA).

(20) "National Pollutant Discharge Elimination System (NPDES)" means the national system for the issuance of per-

mits under section 402 of the act and includes the Washington state program (set forth in chapter 151, Laws of 1973) for participation in said system which has been approved by the administrator in whole pursuant to section 402 of the act.

~~((18) The term)~~ (21) "New source" means any building, structure, facility or installation from which there is or may be the discharge of pollutants, the construction of which is commenced ~~((after the publication of proposed regulations prescribing a standard of performance under section 306 of the act, which will be applicable to such source if such standard is thereafter promulgated in accordance with section 306 of the act))~~;

(a) After promulgation of standards of performance under section 306 of the act which are applicable to such sources; or

(b) After proposal of standards of performance in accordance with section 306 of the act which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within one hundred twenty days of their proposal.

~~((19) The term)~~ (22) "NPDES application" means the uniform national forms for application for a NPDES permit (including subsequent additions, revisions or modifications duly promulgated by the administrator pursuant to the act) as ~~((adopted))~~ prescribed by the council for use in the Washington state NPDES program.

~~((20) The term)~~ (23) "NPDES form" means any issued NPDES permit, ~~((refuse action application,))~~ the NPDES application and the NPDES reporting form, and any uniform national form developed for use in the NPDES program as prescribed in regulations promulgated by the administrator.

~~((21) The term)~~ (24) "NPDES permit" means the permit incorporated in the certification agreement issued by the council which regulates the discharge of pollutants pursuant to section 402 of the act.

~~((22) The term)~~ (25) "NPDES program" means that program of the state of Washington pursuant to section 402 of the act.

~~((23) The term)~~ (26) "NPDES reporting form" or "discharge monitoring report" means the uniform national forms (including subsequent additions, revisions or modifications duly promulgated by the administrator pursuant to the act) for reporting data and information pursuant to monitoring and other conditions of NPDES permits.

~~((24) The term)~~ "permittee" means any person who has been issued a complete Refuse Act or an NPDES permit.

~~(25) The term "pollution" means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.~~

~~(26) The term "Refuse Act" means section 13 of the River and Harbor Act of March 3, 1899.~~

~~(27) The term "Refuse Act application" means the application for a permit under the Refuse Act.~~

~~(28) The term "Refuse Act permit" means any permit issued under the Refuse Act.~~

~~(29) The term)~~ (27) "Permit" means an authorization, license, or equivalent control document issued by the council to implement this chapter. "Permit" does not include any permit which has not yet been the subject of final council action, such as a "draft permit" or a "proposed permit."

(28) "Person" means an individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, local, state, or federal government agency, industry, firm, individual or any other entity whatsoever.

(29) "Point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

(30) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean:

(a) Sewage from vessels within the meaning of section 312 of the act; or

(b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state in which the well is located, and if such state determines that such injection or disposal will not result in the degradation of ground or surface water resources.

(31) "Regional administrator" means the EPA's region X administrator.

~~((30) The term "schedule of compliance" means a schedule of remedial measures, including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, prohibition or standard.~~

~~(31) The term "sewage" means human body waste and the wastes from toilets and other receptacles intended to receive or retain body wastes.~~

~~(32) The term "sewage sludge" means the solids and precipitates separated from waste water by unit processes.~~

~~(33) The term "energy facility" means any energy facility, as defined in RCW 80.50.020(11).~~

~~(34) "Trade secrets" as used in these regulations means information having an alleged commercial importance which, under relevant state law, is protected by reason of a confidential relationship, exclusive, however, of any data or information required by Federal law or regulation to be made publicly available.~~

~~(35) The definitions of the following terms contained in section 502 of the act shall be applicable to such terms as used in these regulations unless the context otherwise requires:~~

~~(a) The term "interstate agency" means an agency of two or more states established by or pursuant to an agreement or compact approved by the congress, or any other agency of two or more states, having substantial powers or duties pertaining to the control of pollution as determined and approved by the administrator.~~

~~(b) The term)~~ (32) "State" means ((a)) any of the fifty states, the District of Columbia, the Commonwealth of

Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

((c) The term "municipality" means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of this act.

(d) The term "person" means an individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, or any interstate body.

(e) The term "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean:

(i) Sewage from vessels within the meaning of section 312 of this act; or,

(ii) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state in which the well is located, and if such state determines that such injection or disposal will not result in the degradation of ground or surface water resources.

(f) The term "navigable waters" means the waters of the United States, including the territorial seas.

(g) The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

(h) The term "contiguous zone" means the entire zone established or to be established by the United States under Article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

(i) The term "ocean" means any portion of the high seas beyond the contiguous zone.

(j) The term "toxic pollutant" means those pollutants, or combinations of pollutants, including disease-causing agents, which after the discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.

(k) The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

(l) The term "biological monitoring" shall mean the determination of the effects on aquatic life, including accu-

mulation of pollutants in tissue, in receiving waters due to the discharge of pollutants

(i) By techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain appropriate to the volume and the physical, chemical, and biological characteristics of the effluent, and

(ii) At appropriate frequencies and locations.

(m) The term "discharge" when used without qualification includes a discharge of a pollutant, and a discharge of pollutants.) (33) "Storm water discharge associated with industrial activity" means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial facility. For energy facilities, the term includes, but is not limited to, storm water discharges from industrial facility yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined in 40 CFR 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purposes of this subsection, material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on facility lands separate from the facility's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. The following additional categories of facilities are considered to be engaged in "industrial activity":

(a) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N;

(b) Facilities where construction activity includes clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more.

(34) "Surface waters of the state" means all waters defined as "waters of the United States" in 40 CFR 122.2 that are within the boundaries of the state of Washington. This includes lakes, rivers, ponds, streams, inland waters, wetlands, ocean, bays, estuaries, sounds, and inlets.

(35) In the absence of other definitions as set forth herein, the definitions as set forth in 40 CFR 122.2 and 122.26(b) shall be used.

NEW SECTION

WAC 463-38-025 Authorization required. No waste materials or pollutants may be discharged from any energy facility as defined in WAC 463-76-010 into surface waters of the state, except as authorized pursuant to this chapter or as authorized by the council pursuant to its authority under chapter 80.50 RCW for coverage under a general permit promulgated by ecology.

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-031 Application filing with the council.

(1) For each energy facility (~~(described in WAC 463-38-020(3))~~) proposing to commence a discharge of pollutants to surface waters of the state, there shall be filed with the council:

(a) A complete (~~(Refuse Act)~~) NPDES application (as previously submitted to the U.S. Corps of Engineers unless such application has been transmitted to the council by the regional administrator; or,) at the time of submitting an application for site certification to the council pursuant to RCW 80.50.071, for proposals to discharge wastewater or storm water to surface waters of the state. Applicants may seek coverage for storm water discharge associated with construction activity or storm water from areas located on facility lands separate from the facility's industrial activities, such as office buildings and accompanying parking lots, as long as the drainage from the excluded areas is not mixed with storm water drained from the areas described in WAC 463-76-010(33) under a NPDES storm water general permit, promulgated by ecology. Any subsequent determination of such an NPDES application's adequacy shall not affect the council's finding that a complete application pursuant to RCW 80.50.070 has been received.

(b) A complete NPDES application (~~(no later than 60 days following receipt by the person identified in WAC 463-38-032 for such energy facility of notice from the council that the previously filed Refuse Act application is so deficient as not to have satisfied the filing requirements; or~~

(c) A complete NPDES application at the time of submitting an application to the council pursuant to RCW 80.50.070. Any subsequent determination of such an NPDES application's adequacy shall not affect the council's finding that a complete application pursuant to RCW 80.50.070 has been received.

(d) A complete NPDES application for any energy facility described in WAC 463-38-020(3) and not covered in paragraph (1)(a), (b) or (c) above. Such NPDES application) for any energy facility and not covered above shall be filed either:

(i) No less than (~~(180)~~) one hundred eighty days in advance of the day on which it desires to commence the discharge of pollutants(~~(:);~~); or(~~(:);~~)

(ii) In sufficient time prior to the commencement of the discharge of pollutants to insure compliance with the requirements of section 306 of the act, (~~(or with any applicable zoning or siting requirements established pursuant to section 208 (b)2(e) of the act)~~) and other applicable water quality standards and applicable effluent standards and limitations.

(2) Each person requesting an NPDES permit from the council shall be required to submit additional information as determined necessary by the council after (~~(a Refuse Act or)~~) an NPDES application has been filed and reviewed by the council. Information shall be provided in sufficient detail such as to fulfill the requirements of 40 CFR 122.26(c).

(3) If (~~(a Refuse Act or)~~) an NPDES application is determined to be incomplete or otherwise deficient, the NPDES portion of any application filed pursuant to RCW 80.50.070 shall not be processed until (~~(such time as)~~) the applicant has supplied the missing information or otherwise corrected the deficiency.

(4) The council shall not consider any NPDES application for a energy facility (~~(included within WAC 463-38-020 (3)(b))~~) until and unless an application for certification is filed with the council pursuant to RCW 80.50.070.

(5) Each NPDES application will be submitted on such form as specified by the council.

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-032 Signature form. (~~(Any NPDES form submitted to the council shall be signed as follows:~~

(1) ~~In the case of private corporations, by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the NPDES form originates.~~

(2) ~~In the case of a partnership, by a general partner.~~

(3) ~~In the case of a sole proprietorship, by the proprietor.~~

(4) ~~In the case of a municipal corporation, state or other public organization, by either a principal executive officer, the ranking elected official or a duly authorized employee.)~~

(1) Applications. All permit applications shall be signed as follows:

(a) For a corporation. By a responsible corporate officer. For the purpose of this section, responsible corporate officer means:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(b) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or

(c) For a municipality, state, federal, or other public agency. By either a principal executive officer or ranking

elected official. For purposes of this section, a principal executive officer of a federal agency includes:

- (i) The chief executive officer of the agency; or
- (ii) A senior executive officer having responsibility.

(2) All reports required by permits, and other information requested by the council shall be signed by a person described in subsection (1) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(a) The authorization is made in writing by a person described in subsection (1) of this section;

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of facility manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(c) The written authorization is submitted to the council.

(3) Changes to authorization. If an authorization under subsection (2) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subsection (2) of this section must be submitted to the council prior to or together with any reports, information, or applications to be signed by an authorized representative.

(4) Certification. Any person signing a document under subsection (1) or (2) of this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-033 Tentative determination on NPDES permits. (1) The council shall formulate and prepare tentative determinations with respect to an NPDES application in advance of public notice as to the proposed issuance or denial of the NPDES permit. Such tentative determination shall be made no later than six months after receipt of a complete NPDES application, or such later time as determined by the council. Such tentative determination shall include at least the following:

(A) A proposed determination to issue or deny an NPDES permit for the discharge described in the ~~((Refuse Act or))~~ NPDES application; and

(B) If the proposed determination in paragraph 1 of this section is to issue the NPDES permit, the following ~~((additional tentative determinations shall be made by the council))~~ shall be included in the tentative determination:

(i) Proposed effluent limitations, identified pursuant to WAC ~~((463-38-053))~~ 463-76-053(1) ~~((, (2))~~;

~~((ii))~~ (ii) A proposed schedule of compliance including interim dates and requirements for meeting the proposed effluent limitations identified pursuant to WAC 463-38-054); and

~~((iii))~~ (ii) A brief description of any other proposed special conditions (other than those required pursuant to WAC ~~((463-38-055))~~ 463-76-055) which will have a significant impact upon the discharges described in the NPDES application.

(2) The council shall organize the tentative determination prepared pursuant to paragraph 1 of this section into a draft NPDES permit.

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-034 Fact sheets. (1) ~~((For every discharge in excess of 500,000 gallons on any one day of the year,))~~ The council shall prepare and include in any public notice given pursuant to WAC ~~((463-38-041))~~ 463-76-041 a fact sheet with respect to the ~~((Refuse Act or))~~ NPDES application described in the public notice. Such fact sheet shall include at least the following:

(a) The type of facility or activity which is subject of the application;

(b) A sketch or detailed description of the location of the discharge described in the NPDES application;

~~((b))~~ (c) A quantitative description of the type of discharge described in the NPDES application which includes at least the following:

(i) The rate and frequency of the proposed discharge; ~~((if the discharge is continuous, the))~~ as average daily flow in gallons per day or million gallons per day and whether the flow is continuous or intermittent;

(ii) For thermal discharges ~~((subject to limitation under the act))~~, the estimated maximum, minimum and average summer and winter temperatures ~~((in degrees Fahrenheit))~~; and

(iii) The average daily discharge in pounds per day, or other appropriate units, of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under this chapter and RCW 90.48.010, 90.54.020 and sections 301, 302, 306 or 307 of the act and regulations published thereunder;

~~((e))~~ (d) The tentative determinations required under WAC ~~((463-38-033))~~ 463-76-033.

~~((d))~~ (e) A brief citation, including a brief identification of the uses for which the waters receiving said discharges have been classified by DOE, of the water quality standards and of the effluent standards and limitations applied to the proposed discharge; and

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~~(e) A fuller description than that given in the public notice))~~ (e) The legal and technical grounds for the tentative determination, including an explanation of how conditions meet both the technology-based and water quality-based requirements of the act and chapters 90.48, 90.52, and 90.54 RCW;

(f) The effluent standards and limitations applied to the proposed discharge;

(g) The applicable water quality standards, including identification of the uses for which receiving waters have been classified by ecology;

(h) How the draft permit addresses use or disposal of residual solids generated by wastewater treatment; and

(i) A description of the procedures to be used by the council in formulating final determinations for an NPDES permit, which shall include, but not be limited to:

(i) Thirty day comment period required by WAC ((463-38-041)) 463-76-041(2);

(ii) Procedures for requesting a public hearing and the nature thereof; and

(iii) Any other procedures by which the public may participate, either directly or through counsel for the environment, in the formulation of the final determinations, including the availability of any environmental assessments or detailed statements of environmental impact and any public hearings which may be held by the council prior to the final determination on the ((Refuse Act or)) NPDES application.

(2) The name of any person or group will be added to a mailing list upon request for receipt of copies of fact sheets. A fact sheet will be sent to the applicant and each person or group on such mailing list. Each person or group on such mailing list will be sent notice of any subsequent revision of the permit or fact sheet.

AMENDATORY SECTION (Amending WSR 91-03-090, filed 1/18/91, effective 2/18/91)

WAC 463-38-041 Public notice~~((provisions))~~. (1) ~~((Notices shall be circulated))~~ The council shall circulate notice of the NPDES application and tentative determination within the geographical areas of the proposed discharge((; and shall be published in a local or daily newspaper of general circulation; such)). Circulation ~~((may))~~ shall include ~~((any))~~ one or ~~((all))~~ more of the following:

(a) Posting for a period of thirty days in the post office and public places of the municipality nearest the premises of the applicant in which the effluent source is located;

(b) Posting for a period of thirty days at or near the entrance of the applicant's principal place of business and in nearby places;

(c) Posting on the council's internet website;

(d) Publishing in a major local newspaper of general circulation.

(2) Any persons may, within thirty days following the date of the public notice, submit their written views on the tentative determinations with respect to the NPDES application. All written comments submitted during the ((30)) thirty-day comment period shall be retained by the council and considered in their final determination with respect to the

NPDES applications. The period for comments may be extended at the discretion of the council.

(3) The contents of public notice of application for NPDES permits shall include at least the following:

(a) Name, address and telephone number of ~~((agency issuing the public notice))~~ the council;

(b) Name and address of applicant;

(c) Brief description of applicant's activities or operations which result in the discharge described in the NPDES application (e.g., thermal electric power generating facility stationary or floating);

(d) Name of waterway to which each discharge is made and a short description of the location of each discharge on the waterway, indicating whether such discharge is new, a modification, or an existing discharge;

(e) A statement of the tentative determination to issue or deny an NPDES permit for the discharge described in the NPDES application;

(f) A brief description of the procedures for the formulation of final determinations, including the ~~((30))~~ thirty-day comment period required by paragraph (2) of this section and any other means set forth in WAC ~~((463-38-034))~~ 463-76-034 (1)((e)) (i).

(g) Address and telephone number of state or interstate agency premises at which interested persons may obtain further information, request a copy of the draft permit prepared pursuant to WAC ~~((463-38-033))~~ 463-76-033(2), request a copy of the fact sheet described in WAC ~~((463-38-034))~~ 463-76-034 and inspect and copy NPDES forms and related documents at a reasonable charge.

(4) The council shall notify the applicant and persons who have submitted written comments or requested notice of the final permit decision. This notification shall include response to comments received and reference to the procedures for contesting the decision.

(5) Public and agency notice will be given as set forth below:

(a) ((Notice shall be mailed)) The council shall mail the notice to any person or group carried on the mailing list identified in WAC ~~((463-38-034))~~ 463-76-034(2). Upon written request, the name of any person or group shall be added upon written request to a mailing list for distributing copies of notices for all NPDES applications within the state or within a certain geographical area.

(b) At the time of issuance of public notice pursuant to ((WAC 463-38-041)) this section a fact sheet will be sent to:

(i) Any other state whose waters may be affected by the issuance of the NPDES permit and to any interstate agency having water quality control authority over waters which may be affected by the issuance of a permit and, upon request, providing such state and interstate agencies with a copy of the NPDES application and a copy of the proposed permit prepared pursuant to WAC ~~((463-38-033))~~ 463-76-033(2). Each affected state and interstate agency shall be afforded an opportunity to submit written recommendations to the council and to the regional administrator, which shall be duly considered by the council in accordance with the policies, provisions and regulations of the act, chapter 80.50 RCW et seq., and chapter 34.05 RCW et seq.

(ii) ~~The district engineer of the Army Corps of Engineers ((for NPDES applications for discharges (other than minor discharges) into navigable waters)), the United States Fish and Wildlife Service, the United States National Oceanic and Atmospheric Administration - Fisheries, the state departments of ecology, fish and wildlife, natural resources, and social and health services, the office of archaeology and historic preservation office, applicable Indian tribes and any other applicable government agency.~~

(iii) Any other federal, state or local agency ~~((or any affected county)), Indian tribe,~~ upon request and shall provide such agencies an opportunity to respond, comment or request a public hearing pursuant to WAC ~~((463-38-042)) 463-76-042. ((Such agencies shall include at least the following:~~

- ~~(a) The agency responsible for the preparation of an approved plan pursuant to section 208(b) of the act;~~
- ~~(b) DOE; and~~
- ~~(c) Appropriate public health agencies, including those represented on the council.))~~

AMENDATORY SECTION (Amending WSR 91-03-090, filed 1/18/91, effective 2/18/91)

WAC 463-38-042 Public hearings. (1) ~~((Any))~~ The applicant, any affected state, any affected interstate agency, any affected county, any interested agency, any affected tribe, person or group of persons, or the regional administrator may request of or petition the council for a public hearing ((to be held with respect to an NPDES application)) on the council's tentative determination under WAC 463-76-033. Any such request or petition for public hearing shall be filed within thirty days after the giving of public notice pursuant to WAC ~~((463-38-041)) 463-76-041.~~ Said request or petition shall indicate the interest of the party filing such request and the reasons why it is thought that a hearing is warranted.

(2) A public hearing shall be held if there is a significant public interest (including the filing of request(s) or petition(s) for such hearing) in holding such a hearing. ~~((Instances of doubt should be resolved by the council in favor of holding the hearing.))~~

(3) Any hearings brought pursuant to this section shall be held in the geographical area of the proposed discharge or other appropriate area, in the discretion of the council, and may, as appropriate, consider related groups of permit applications.

(4) Any public hearings held hereunder will be conducted in accordance with provisions of RCW 80.50.090, chapter 34.05 RCW et seq., and regulations promulgated thereunder.

(5) Public notice of any hearing held pursuant to WAC ~~((463-38-042)) 463-76-042~~ (1) through (4) shall be circulated at least as widely as was the notice of the NPDES application and shall include at least the following:

(a) Notice shall be published in at least one major local newspaper of general circulation within the geographical area of the discharge;

(b) Notice shall be sent to all persons and government agencies which received a copy of the notice or the fact sheet ~~((for the NPDES application));~~

(c) Notice shall be mailed to any person or group upon request; and

(d) Notice shall be effected pursuant to subparagraphs (a) and (c) of this paragraph at least [thirty] days in advance of the hearing. The council may give notice of a public hearing concurrent with public notice given pursuant to WAC ~~((463-38-041)) 463-76-041.~~

(6) The contents of public notice of any hearing held pursuant to WAC ~~((463-38-042)) 463-76-042~~ (1) through (4) shall include at least the following notice which meets the requirements of this section:

- (a) Name, address and phone number of the council;
 - (b) Name and address of each applicant whose application will be considered at the hearing;
 - (c) Name of waterway to which each discharge is made and short description of the location of each discharge on the waterway;
 - (d) A brief reference to the public notice issued for each NPDES application, including identification number and date of issuance (where applicable);
 - (e) Information regarding the time and location for the hearing;
 - (f) The purpose of the hearing;
 - (g) A short and plain statement of the matters asserted;
 - (h) Address and phone number of premises at which interested persons may obtain further information, request a copy of each draft NPDES permit prepared pursuant to WAC ~~((463-38-033)) 463-76-033~~(2) above, request a copy of each fact sheet prepared pursuant to WAC ~~((463-38-034)) 463-76-034~~, and inspect a copy NPDES forms and related documents; and
 - (i) A brief description of the nature of the hearing, including the rules and procedures to be followed.
- (7) The council shall cause a record to be made of all hearings required pursuant to this section. The record may be stenographic, mechanical, or electronic.

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-043 Public access to information. (1) All ~~((NPDES forms)) records~~ relating to NPDES applications (including the draft NPDES permit prepared pursuant to WAC ~~((463-38-033)) 463-76-033~~(2) or any public comment upon those ~~((forms)) records~~ pursuant to WAC ~~((463-38-041)) 463-76-041~~(2) shall be available to the public for inspection and copying ~~((at a nominal charge. Any other records, reports, plans or information received by the council or the state pursuant to its participation in the NPDES program shall be available at a reasonable charge to the public in accordance with existing law)) consistent with WAC 463-06-110 - Copying and fees.~~

(2) Any information (other than effluent data) received by the council and contained in any NPDES forms, or other records, reports or plans shall be protected as confidential upon a showing by any person that such information if made public would divulge methods or processes entitled to protection as trade secrets of such person. ~~((If, however, the information being considered for confidential treatment is contained in an NPDES form, the council shall forward such~~

~~information to the regional administrator for his concurrence in any determination of confidentiality. If the regional administrator does not agree that some or all of the information being considered for confidential treatment merits such protection he shall request advice from the office of general counsel stating the reasons for his disagreement with the determination of the council. The regional administrator shall simultaneously provide a copy of such request to the person claiming trade secrecy. The general counsel shall determine whether the information in question would, if revealed, divulge methods or processes entitled to protection as trade secrets. In making such determination, he shall consider any additional information submitted to the office of the general counsel within 30 days of receipt of the request from the regional administrator. If the general counsel determines that the information being considered does not contain trade secrets he shall so advise the regional administrator and shall notify the person claiming trade secrecy of such determination by certified mail. No later than 30 days following the mailing of such notice, the regional administrator shall communicate to the council his decision not to concur in the withholding of such information and the council and the regional administrator shall then make available to the public upon request that information determined not to constitute trade secrets.)~~ Claims of confidentiality for the following information will be denied:

(a) The name and address of any permit applicant or permittee;

(b) Permit applicants, permits, and effluent data;

(c) Information required by NPDES application forms pursuant to WAC 463-76-031 may not be claimed confidential.

(3) Any information afforded confidential status ~~((whether or not contained in an NPDES form))~~ shall be disclosed upon request to the regional administrator or his authorized representative who shall maintain the disclosed information as confidential.

(4) The council shall provide facilities for the inspection of nonconfidential information relating to NPDES forms during normal business hours of the council at its headquarters and shall insure that state employees will comply with requests for such inspection as soon as is reasonably possible without undue interference with council business. The ~~((executive secretary))~~ council manager shall insure that a machine or device for the copying of papers and documents is available for a reasonable fee as determined by the council.

AMENDATORY SECTION (Amending Order 86-1, filed 12/17/86)

WAC 463-38-051 General conditions. (1) Any NPDES permit shall be issued for a period of not longer than five years, which period shall start on the date of issuance of said permit. Review and reissuance of this authorization per WAC 463-76-061 to discharge wastewater, storm water, and sanitary sewer wastes and any related changes to the site certification agreement shall not require approval of the governor. However, the permittee shall inform the council at least ((180)) one hundred eighty days prior to any initiation of such a discharge.

(2) The decision to approve or reject, and on what conditions an NPDES permit shall be issued, shall be in conformance with the requirements of this ~~((section))~~ chapter. A majority vote of council members ~~((listed in RCW 80.50.030(3)))~~ shall resolve any dispute and shall determine the approval or rejection of ~~((a Refuse Act or))~~ an NPDES application.

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-052 Prohibited discharges. (1) No discharge regulated under the act shall be made by energy facilities subject to the jurisdiction of the council unless authorized by an NPDES permit issued pursuant to these regulations.

(2) No NPDES permit may be issued by the council ~~((shall authorize any person to))~~:

(a) ((Discharge)) When the conditions of the permit do not provide for compliance with the applicable requirements of the act, or regulations promulgated under the act;

(b) When the applicant is required to obtain a state certification under section 401 of the act and 40 CFR 124.53 and that certification has not been obtained or waived;

(c) When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of Washington state;

(d) For the discharge of any radiological, chemical or biological warfare agent or high-level radioactive waste into ((navigable)) surface waters of the state;

~~((b))~~ (e) For the discharge of any pollutants which the secretary of the Army acting through the chief, Corps of Engineers, finds would substantially impair anchorage and navigation in waters subject to the jurisdiction of the Corps of Engineers;

~~((e))~~ (f) For the discharge of any pollutant to which the regional administrator has objected in writing pursuant to any right to object provided the administrator in section 402(d) of the act;

~~((d))~~ (g) For discharge from a point source any pollutant which is in conflict with the plan or amendment thereto approved pursuant to section 208(b) of the act;

(h) For the discharge of any pollutant subject to a toxic pollutant discharge prohibition under section 307 of the act;

(i) For any discharge to the territorial sea, the waters of the contiguous zone, or the oceans in the following circumstances:

(i) Before the promulgation of guidelines under section 403(c) of the act, unless the council determines permit issuance to be in the public interest;

(ii) After promulgation of guidelines under section 403(c) of the act, when insufficient information exists to make a reasonable judgment whether the discharge complies with them;

(j) To a new source or a new discharger, if the discharge from its construction or operation will cause or contribute to a violation of water quality standards. The owner or operator of a new source or new discharger proposing to discharge into a water segment which does not meet applicable water quality standards or is not expected to meet those standards

even after the application of effluent limitations required by sections 301 (b)(1)(A) and 301 (b)(1)(B) of the act, and for which the state has performed a pollutants load allocation for the pollutant to be discharged, must demonstrate, before the close of comment period, that:

(i) There are sufficient remaining pollutant load allocations to allow for the discharge; and

(ii) The existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards. The council may waive the submission of information by the new source or new discharger required by (j) of this subsection if the council determines that the council already has adequate information to evaluate the request. An explanation of the development of limitations to meet the criteria of this paragraph is to be included in the fact sheet;

(k) Discharge any dangerous waste as defined in the Dangerous waste regulations, chapter 173-303 WAC, into a subsurface disposal system such as a well or drainfield.

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-053 Effluent limitations, water quality standards and other requirements for NPDES permits.

(1) Any NPDES permit issued by the council shall apply and insure compliance with all of the following, whenever applicable:

~~(a) ((Effluent limitations under sections 301 and 302 of the act;~~

~~(b) Standards of performance for new sources under section 306 of the act;~~

~~(e) Effluent standards, effluent prohibitions and pretreatment standards under section 307 of the act;~~

~~(d)) All known, available, and reasonable methods of treatment; including effluent limitations established under sections 301, 302, 306, and 307 of the act. The effluent limitations shall not be less stringent than those based upon the treatment facility design efficiency contained in approved engineering plans and reports or approved revisions thereto. The effluent limitations shall reflect any seasonal variation in industrial loading;~~

(b) Any more stringent limitation, including those:

(i) Necessary to meet water quality standards, treatment standards or schedules of compliance established pursuant to any state law or regulation under authority preserved to the state by section 510 of the act; or

(ii) Necessary to meet any applicable federal law or regulation other than the act or regulations thereunder; or

(iii) Required to implement any applicable water quality standards; such limitations to include any legally applicable requirements necessary to implement total maximum daily loads established pursuant to section 303(d) and incorporated in the continuing planning process approved under section 303(e) of the act and any regulations and guidelines issued pursuant thereto;

~~((e)) (iv) Prevent or control pollutant discharges from facility site runoff, spillage or leaks, sludge or waste disposal, or materials handling or storage; and~~

(v) Meet the permit by rule provisions of the state dangerous waste regulation, WAC 173-303-802 (4) or (5).

(c) Any more stringent legal applicable requirements necessary to comply with a plan approved pursuant to section 208(d) of the act; and

~~((f)) (d) Prior to promulgation by the administrator of applicable effluent standards and limitations pursuant to sections 301, 302, 306 and 307 of the act, such conditions as the council determines are necessary to carry out the provisions of the act.~~

(2) In any case where an issued NPDES permit applies the effluent standards and limitations described in paragraph 1 of this section, the council shall make a finding that any discharge authorized by the permit will not have reasonable potential to violate applicable water quality standards and will have prepared some explicit verification of that ~~((fact. In any case where an issued NPDES permit applies any more stringent effluent limitation, based upon applicable water quality standards, a waste load allocation shall be prepared to ensure that the discharge authorized by the permit is consistent with applicable water quality standards))~~ finding.

(3) In the application of effluent standards and limitations, water quality standards and other legally applicable requirements pursuant to ~~((paragraphs))~~ subsections (1) and (2) ~~((hereof))~~ of this section, each issued NPDES permit shall specify:

(a) Average and maximum daily quantitative or other appropriate limitations for the level of pollutants in the authorized discharge. The average and maximum daily quantities must be made by weight except where the parameters are such that other measures are appropriate;

(b) If a dilution zone is authorized within which water quality standards are modified, the dimensions of such dilution zone.

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-054 Schedules of compliance. (1) ~~((In addition to the application of the effluent standards and limitations, water quality standards, and other legally applicable requirements, all pursuant to WAC 463-38-053 (1), (2), the council shall establish schedules in NPDES permit conditions to achieve compliance with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements.))~~ With respect to any discharge which is found by the council not to be in compliance with applicable effluent standards and limitations, applicable water quality standards, or other legally applicable requirements listed in WAC ~~((463-38-053))~~ 463-76-053 (1) ~~((d))~~ ~~((e))~~ (b) and (c), the permittee shall be required to take specific steps to achieve compliance with the following:

(a) Any legally applicable schedule of compliance contained in:

(i) Applicable effluent standards and limitations;

(ii) ~~((If more stringent,))~~ Water quality standards; or

(iii) ~~((If more stringent,))~~ Legally applicable requirements listed in WAC ~~((463-38-053(1)(d)(e))~~ 463-76-053; or

(b) In the absence of any legally applicable schedule of compliance, the permittee shall take the required steps in a

reasonable period of time, such period to be consistent with the guidelines and requirements of the act.

(2) In any case where the period of time for compliance specified in paragraph (1)(a) of this section exceed nine months, a schedule of compliance shall be specified in the permit which will set forth interim requirements and the dates for their achievement; however, in no event shall more than nine months elapse between interim dates. If the time necessary for completion of the interim requirement (such as construction of a treatment facility) is more than nine months and is not readily divided into stages of completion, interim dates shall be specified for the submission of reports of progress toward completion of the interim requirement. For each NPDES permit schedule of compliance, interim dates and the final date of compliance shall, to the extent practicable, fall on the last day of the months of March, June, September and December.

(3) Either before or up to ~~((14))~~ fourteen days following each interim date and the final date of compliance, the permittee shall provide the council with written notice of the permittee's compliance or noncompliance with the interim or final requirement.

(4) If a permittee fails or refuses to comply with an interim or final requirement in a permit, such noncompliance shall constitute a violation of the permit for which the council may modify or revoke the permit or take direct enforcement action.

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-055 Other terms and conditions. In addition to the requirements of WAC ~~((463-38-051, 463-38-052 and 463-38-053))~~ 463-76-051, 463-76-052 and 463-76-053, each issued NPDES permit shall require that:

(1) All discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the permit; any facility expansions, production increases or process modifications which would result in new or increased discharges of pollutants must be reported to the council by submission of a new NPDES application or supplement thereto or, if such discharge does not violate effluent limitations specified in the NPDES permit, by submission to the council of notice of such new or increased discharges of pollutants; any discharge of any pollutant more frequent than or at a level in excess of that identified and authorized by the NPDES permit shall constitute a violation of the terms and conditions of the NPDES permit;

(2) The permit may be modified, suspended or revoked in whole or in part during its terms for cause including, but not limited to, the following:

(a) Violation of any term or condition of the NPDES permit;

(b) Obtaining an NPDES permit by misrepresentation or failure to disclose fully all relevant facts; ~~((and))~~

(c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; and

(d) A determination that the permitted activity endangers human health or the environment, or contributes to water quality standards violations.

(3) The permittee shall allow the council or its authorized representative upon the presentation of credentials and at reasonable times:

(a) To enter upon permittee's premises in which an effluent source is located or in which any records are required to be kept under terms and conditions of the NPDES permit;

(b) To have access to and copy at reasonable cost any records required to be kept under terms and conditions of the NPDES permit;

(c) To inspect any monitoring equipment or method required in the NPDES permit; or

(d) To sample any discharge of pollutants.

(4) The permittee shall at all times maintain a good working order and operate as efficiently as possible any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the NPDES permit.

(5) If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the act for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the NPDES permit, ~~the ((council shall revise or modify the NPDES permit in accordance with the toxic effluent standard of prohibition and so notify the))~~ permittee shall comply with that toxic effluent standard or prohibition even if this permit has not yet been modified to incorporate the requirement.

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-061 Reissuance of NPDES permits. (1) Any permittee shall make application for reissuance of an NPDES permit ~~((s))~~ or continuation of discharges after the expiration date of ~~((his))~~ the NPDES permit by filing with the council an application for reissuance of ~~((his))~~ the permit at least ~~((180))~~ one hundred eighty days prior to its expiration. ~~((The filing requirement for reissuance shall be satisfied in the first instance by a simply written request for reissuance by the permittee to the council, except that the council in its discretion may require any and/or all permittees to request a reissuance by submitting to the council all then applicable NPDES forms.))~~

(2) The scope and manner of any review of an application for reissuance of an NPDES permit by the council shall be sufficiently detailed as to insure the following:

(a) That the permittee is in compliance with or has substantially complied with all of the terms, conditions, requirements and schedules of compliance of the expired NPDES permit;

(b) That the council has up-to-date information on the permittee's production levels, permittee's waste treatment practices, and the nature, content and frequencies of permittee's discharge, either pursuant to the submission of new forms and applications or pursuant to monitoring records and

reports (~~resubmitted~~) submitted to the council by the permittee and;

(c) That the discharge is consistent with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements listed in WAC (~~463-38-053~~) 463-76-053 (1) and (2), including any additions to, or revisions or modifications of, such effluent standards and limitations, water quality standards, or other legally applicable requirements during the term of the permit.

(3) The notice and procedures specified in WAC (~~463-38-041 and 463-38-042~~) 463-76-041 and 463-76-042 are applicable to each request for reissuance of an NPDES permit.

(4) (~~Notwithstanding any other provision any point source of a discharge having a thermal component the construction of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and which is so constructed as to meet all applicable standards of performance shall not be subject to any more stringent standard of performance with respect to the thermal component of its discharge during a ten-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first.~~) When a permittee has made timely and sufficient application for the renewal of a permit, an expiring permit remains in effect and enforceable until the application has been denied or a replacement permit has been issued by the council pursuant to WAC 463-76-0625 - Permit issuance.

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-062 Modification of NPDES permit. (1) After notice and opportunity for a public hearing, any permit issued under the NPDES can be modified, suspended or revoked (~~for cause,~~) in whole or in part during its term for cause including, but not limited to, the causes listed in WAC 463-76-055(2).

(2) The council may, upon request of a permittee, revise or modify a schedule of compliance in an issued NPDES permit if the council determines good and valid cause exists for such revision and if within (~~30~~) thirty days following receipt of notice from the council, the regional administrator does not object in writing.

(3) Any such modifications shall be executed by the council and the permittee in the same manner as the NPDES permit was executed, including full compliance with the requirements of WAC (~~463-38-041, 463-38-042 and 463-38-043~~) 463-76-041, 463-76-042 and 463-76-043.

NEW SECTION

WAC 463-38-0625 Permit issuance. Any permit issued by the council pursuant to this chapter shall become an attachment to a site certification agreement. For an energy facility proposal requiring the execution of a governor-approved site certification agreement, the permit shall be effective upon the governor's approval and execution of the site certification agreement. For existing facilities under the

jurisdiction of the council, revisions, modifications or reissuance of the NPDES permit shall be effective when approved by the council and signed by the chair.

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-064 Transmission to regional administrator of proposed NPDES permit. (1) Each proposed NPDES permit will be transmitted to the regional administrator in accordance with the following procedures:

(a) A copy of the proposed NPDES permit, including any and all terms, conditions, requirements or documents which are a part of the proposed permit or which affect the authorization by the proposed permit of the discharge of pollutants except as to classes, types or sizes within any category of point sources waived in writing by the regional administrator.

(b) The regional administrator shall be provided a ninety-day period, unless waived in advance, in which to comment upon, make recommendations with respect to, or object in writing to the issuance of the proposed permit pursuant to any right to object provided the administrator in section 402 (d)(2) of the act. No permit shall be issued if the regional administrator objects in writing to the issuance of such permit pursuant to any such right within said period, unless such objection is waived or withdrawn by the regional administrator in writing. Should no such objection be received within said period, it shall be presumed that the administrator has no objection to the issuance of the proposed permit.

(2) Immediately following execution by the applicant and the state, a copy of every issued NPDES permit ((immediately following execution by the applicant and the state,)) along with any and all terms, conditions, requirements or documents which are a part of such NPDES permit or which will affect the authorization of the discharge of pollutants will be sent to the regional administrator.

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-065 Monitoring and enforcement. (1) Monitoring.

(a) Any discharge authorized by a permit may be subject to such monitoring requirements as may be reasonably required by the council, including the installation, use, and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). These monitoring requirements would normally include:

(i) Flow (in gallons per day);

(ii) Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) which are subject to limitation, reduction, or elimination under the terms and conditions of the permit;

(iii) Pollutants which the council finds could have a significant impact on the quality of waters of the state; and

(iv) Pollutants specified by the administrator, in regulations issued pursuant to the act, as subject to monitoring.

(b) Each effluent flow or pollutant required to be monitored pursuant to (a) of this subsection shall be monitored at intervals sufficiently frequent to yield data which reasonably

characterizes the nature of the discharge of the monitored effluent flow or pollutant.

Variable effluent flows and pollutant levels may be monitored at more frequent intervals than relatively constant effluent flows and pollutant levels which may be monitored at less frequent intervals.

(c) Monitoring of intake water, influent to treatment facilities, internal waste streams, and/or receiving waters may be required when determined necessary by the council to verify compliance with net discharge limitations or removal requirements, to verify that proper waste treatment or control practices are being maintained, or to determine the effects of the discharge on the surface waters of the state.

(2) Recording of monitoring activities and results. Any permit which requires monitoring of the authorized discharge shall require that:

(a) The permittee shall maintain records of all information resulting from any monitoring activities required of them in their permit;

(b) Any records of monitoring activities and results shall include for all samples:

(i) The date, exact place, and time of sampling;

(ii) The dates analyses were performed;

(iii) Who performed the analyses;

(iv) The analytical techniques/methods used; and

(v) The results of such analyses; and

(c) The permittee shall be required to retain for a minimum of three years any records of monitoring activities and results including all original strip chart recording for continuous monitoring instrumentation and calibration and maintenance records. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the council or regional administrator.

(3) Reporting of monitoring results.

(a) The permittee shall periodically report (at a frequency of not less than once per year) on the proper reporting form, the monitoring results obtained pursuant to monitoring requirements in a permit. In addition to the required reporting form, the council at its discretion may require submission of such other results as it determines to be necessary.

(b) Monitoring reports shall be signed by:

(i) In the case of corporations, by a responsible corporate officer or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge originates.

(ii) In the case of a partnership, by a general partner.

(iii) In the case of a sole proprietorship, by the proprietor.

(iv) In the case of a municipal, state or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

(4) Use of registered or accredited laboratories.

(a) Except as established in (b) of this subsection, monitoring data submitted to the council in accordance with this chapter shall be prepared by a laboratory accredited under the provisions of chapter 173-50 WAC. These requirements are effective and binding on all permittees under the authority of rule, regardless of whether they have been included as conditions of a permit.

(b) The following parameters need not be done by an accredited or registered lab:

(i) Flow;

(ii) Temperature;

(iii) Settleable solids;

(iv) Conductivity, except that conductivity shall be accredited if the laboratory must otherwise be registered or accredited;

(v) pH, except that pH shall be accredited if the laboratory must otherwise be registered or accredited;

(vi) Turbidity, except that turbidity shall be accredited if the laboratory must otherwise be registered or accredited; and

(vii) Parameters which are used solely for internal process control.

(5) Compliance monitoring. The council ((hereby delegates to the DOE the)) may establish an interagency contract with ecology for compliance monitoring activities of water discharges under a certification agreement which incorporates the NPDES permit. ((As a result of said monitoring activities, DOE shall report to the council any activity by a permittee which in its judgment requires the initiation of appropriate enforcement activities by the council including those in WAC 463-38-055, pursuant to RCW 80.50.150. The council shall then take or initiate action to enforce the terms of any certification agreement and the incorporated NPDES permit. This in no way shall restrict any enforcement by other public agencies and officials under existing law. If DOE determines that immediate action is needed to enforce the act or any statute or regulation derived therefrom, it is delegated the enforcement authority and responsibility to carry out such immediate action as it deems necessary and shall report such actions to the council. Such action shall remain in effect until confirmed or modified by the council.)) Monitoring and/or appropriate enforcement activities by ecology are authorized by WAC 463-70-060(1).

(6) Enforcement.

(a) Enforcement activities regarding the NPDES program, including the levying of civil and criminal fines pertaining to all energy facilities where the permit is issued by the council, shall be undertaken by the council, with assistance from ecology, the attorney general, or the prosecuting attorney, as appropriate.

(b) Pursuant to the provisions of RCW 80.50.150 - Enforcement of compliance penalties, the council shall take or initiate such actions to enforce the terms of any site certification agreement and the incorporated NPDES permit. The council may take any or all of the following actions:

(i) Assess or sue to recover in court such civil fines, penalties, and other civil relief as may be appropriate for the violation by any person of:

(A) Any effluent standards and limitations or water quality standards;

(B) Any permit or term or condition thereof;

(C) Any filing requirements;

(D) Any duty to permit or carry out inspection, entry, or monitoring activities; or

(E) Any rules, regulations, or orders issued by the council.

(ii) Request the prosecuting attorney to seek criminal sanctions for the violation of any permits or conditions

thereof without the necessity of a prior revocation of the permit;

(iii) Request the prosecuting attorney to seek criminal sanctions for the violation by such persons of:

(A) Any effluent standards and limitations or water quality standards;

(B) Any permit or term condition thereof; or

(C) Any filing requirements.

(iv) Seek criminal sanctions against any person who knowingly makes any false statement, representation, or certification in any form or any notice or report required by the terms and conditions of any issued permit or knowingly renders inaccurate any monitoring device or method required to be maintained by the council.

(v) Enter any premises in which an effluent source is located or in which records are required to be kept under terms or conditions of a permit, and otherwise be able to investigate, inspect, or monitor any suspected violations of water quality standards, or effluent standards and limitations, or of permits or terms or conditions thereof.

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-080 Transmittal of data to regional administrator. (1) ~~((Copies of NPDES))~~ A complete NPDES form or relevant portions of any forms received by the council as outlined below shall be transmitted to the regional administrator(;

~~(a)) upon receipt by the council(;~~

~~(b) A complete copy, or relevant portions thereof, of any appropriate NPDES form received by the council;)).~~

(2) The regional administrator may object in writing to deficiencies in any NPDES application or reporting form ~~((received by him))~~ and to ~~((have))~~ required such deficiency to be corrected, so long as ~~((he))~~ the administrator acts to inform ~~((by written letter))~~ the council by letter within twenty days after ~~((his))~~ receipt of the NPDES application or reporting form. If the regional administrator's objection relates to an NPDES application, the council will send to the regional administrator ~~((will be sent))~~ any information necessary to correct the deficiency. If the regional administrator so requests, the council will not issue the NPDES permit until they receive notice from the regional administrator that the deficiency has been corrected, which notice shall not be withheld for more than ~~((30))~~ thirty days.

(3) For all minor discharges, the council may require the operator of such a discharge to submit NPDES application forms or such other information as may be requested by the regional administrator.

(4) On the last day of the months of February, May, August, and November, the council shall transmit to the regional administrator a list of all instances in the previous ninety days of failure or refusal of a permittee to comply with an interim or final requirement. Such list shall be available to the public for inspection or copying and shall contain at least the following information on each instance of noncompliance:

(a) Name and address of each noncomplying permittee;

(b) A short description of the instance of noncompliance (e.g., failure to submit preliminary plans, delay in commencement of construction of treatment facility, failure to notify the council of compliance with an interim requirement, etc.);

(c) A short description of any actions or proposed actions by the permittee or the council to comply or enforce compliance with the interim or final requirement; and

(d) Any details which explain or mitigate an instance of noncompliance with an interim or final requirement.

AMENDATORY SECTION (Amending Order 114, filed 2/4/77)

WAC 463-38-090 Conflict of interest. No member of the council shall have received, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for an NPDES permit under the jurisdiction of this council.

(1) For the purposes of this section, the term "member" includes any individual who has or shares authority to approve permit applications or portions thereof, either in the first instance or on appeal.

(2) For the purpose of this section, the term "permit holders or applicants for a permit" shall not include any department or agency of a state government.

(3) For the purposes of this section, the term "significant portion of his income" shall mean ten percent of gross personal income for a calendar year, except that it shall mean fifty percent of gross personal income for a calendar year if the recipient is over ~~((60))~~ sixty years of age and is receiving such portion pursuant to retirement pension or similar arrangement.

(4) For the purposes of this section, the term "income" includes retirement benefits, consultant fees and stock dividends.

(5) For the purposes of this section, income is not received "directly or indirectly from permit holders or applicants for a permit" if it is derived from mutual fund payments or from other diversified investments over which the recipient does not know the identity of the primary source of income.

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
463-38-010	463-76-010
463-38-020	463-76-020
463-38-030	463-76-030
463-38-031	463-76-031
463-38-032	463-76-032
463-38-033	463-76-033
463-38-034	463-76-034
463-38-040	463-76-040
463-38-041	463-76-041

PROPOSED

Old WAC Number	New WAC Number	463-39-170	463-78-170
463-38-042	463-76-042	463-39-230	463-78-230
463-38-043	463-76-043		
463-38-050	463-76-050		
463-38-051	463-76-051		
463-38-052	463-76-052		
463-38-053	463-76-053		
463-38-054	463-76-054		
463-38-055	463-76-055		
463-38-060	463-76-060		
463-38-061	463-76-061		
463-38-062	463-76-062		
463-38-063	463-76-063		
463-38-064	463-76-064		
463-38-065	463-76-065		
463-38-080	463-76-080		
463-38-090	463-76-090		

PROPOSED

AMENDATORY SECTION (Amending Order 82-5, filed 12/22/82)

WAC 463-40-010 Purpose. The energy facility site evaluation council, under authority ~~((invested))~~ vested in it by chapter 80.50 RCW is charged with the responsibility of adopting rules sufficient to ~~((the protection of))~~ protect the public and the environment from the effects of dangerous wastes generated at energy facilities subject to chapter 80.50 RCW.

AMENDATORY SECTION (Amending Order 82-5, filed 12/22/82)

WAC 463-40-040 Monitoring and enforcement. The council will contract with the department of ecology ~~((DOE))~~ ecology for the monitoring activities for dangerous wastes regulated by this chapter under a certification agreement. As a result of said monitoring activities, DOE shall report to the council any activity by a permittee which in its judgment requires the initiation of appropriate enforcement activities by the council. The council shall then take or initiate action to enforce the terms of any certification agreement. This in no way shall restrict any enforcement by other public agencies and officials under existing law. If ~~((DOE))~~ the department of ecology determines that immediate action is needed to enforce the act or any statute or regulation derived therefrom, it shall report immediately to the chairman who shall initiate such immediate enforcement action as may be necessary. Such action shall remain in effect until confirmed or modified by the council.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 463-38-020	Scope and purpose.
WAC 463-38-030	NPDES application and tentative determination.
WAC 463-38-040	Notice, hearings and information accessibility.
WAC 463-38-050	NPDES permit contents.
WAC 463-38-060	NPDES permits review and appeal.

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
463-39-005	463-78-005
463-39-010	463-78-010
463-39-020	463-78-020
463-39-030	463-78-030
463-39-070	463-78-070
463-39-090	463-78-090
463-39-095	463-78-095
463-39-100	463-78-100
463-39-105	463-78-105
463-39-115	463-78-115
463-39-120	463-78-120
463-39-135	463-78-135
463-39-140	463-78-140

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
463-40-010	463-74-010
463-40-020	463-74-020
463-40-030	463-74-030
463-40-040	463-74-040

Chapter 463-42 WAC

~~((PROCEDURE GUIDELINES))~~ **APPLICATIONS FOR SITE CERTIFICATION**

Subpart A - General

AMENDATORY SECTION (Amending WSR 92-23-012, filed 11/6/92, effective 12/7/92)

WAC 463-42-010 Purpose ~~((and scope))~~. This chapter sets forth guidelines for preparation of applications for energy facility site certification pursuant to chapter 80.50 RCW. Applications for siting energy facilities must contain

information regarding the standards required by chapter 463-62 WAC.

The application shall provide the council with information regarding the applicant, the proposed project design and features, the natural environment, and the built environment (~~(, and plans for project termination and site restoration)~~). This information shall be in such detail as determined by the council to enable the council to go forward with its application review.

The council encourages applicants to consult with appropriate agencies for guidance in gathering sufficient detailed information, and development of comprehensive mitigation plans, for inclusion in their application.

AMENDATORY SECTION (Amending WSR 92-23-012, filed 11/6/92, effective 12/7/92)

WAC 463-42-012 General—Organization—Index. Except as may be otherwise approved by the council and except as otherwise provided below with respect to applications covering nuclear power plants, the contents of the application shall be organized in the same order as these guidelines.

(1) To aid in the council's review under SEPA and chapter 463-47 WAC, WAC (~~(463-42-302)~~) 463-60-302 through (~~(463-42-382)~~) 463-60-372 are similar to the elements required in an environmental impact statement.

(2) In the case of an application covering a nuclear power plant, the environmental report prepared for the nuclear regulatory commission may be substituted for the comparable sections of the site certification application, provided that the environmental report is supplemented as necessary to comply with this chapter and that an index is included listing these guidelines in order and identifying where each applicable guideline is addressed.

NEW SECTION

WAC 463-42-021 Council recognizes pressing need for energy facilities. RCW 80.50.010 requires the council to "recognize the pressing need for increased energy facilities." For that reason, applications for site certification need not demonstrate a need for the energy facility.

AMENDATORY SECTION (Amending WSR 92-09-013, filed 4/2/92, effective 5/3/92)

WAC 463-42-055 General—Form and number of copies. (1) Applications shall be on 8-1/2 by 11" sheets, in loose-leaf form with a hard cover binder. The applicants shall supply (~~(thirty-five)~~) a sufficient number of copies of the application to the council, the number to be determined by the council in consultation with its staff, consultants and the applicant. The applicants shall also supply two copies to each county, two copies to each city, and one copy to each port district in which the proposed project would be located. In addition, one copy shall be supplied to each intervenor on admission to the proceedings. Information later submitted shall be by page-for-page substitutions suitable for insertion in the application binder, bearing the date of the submission.

(2) An applicant shall also provide the council copies of its application in a digital format for use in personal computers. Digital format shall be determined by the council in consultation with its staff, consultants and the applicant.

(3) At the time of submittal of the application, the applicant shall submit one copy of the applicable land use plans and zoning ordinances for the project site.

AMENDATORY SECTION (Amending Order 87-1, filed 2/11/87)

WAC 463-42-075 General—Assurances. The application shall set forth insurance, bonding or other arrangements proposed in order to mitigate for damage or loss to the physical or human environment caused by project construction, operation, abandonment, termination, or when operations cease at the completion of a project's life. The application shall describe the applicant's commitment to the requirements of chapter 463-72 WAC, Site restoration and preservation.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-085 General—Mitigation measures. (1) Mitigation measures summary. The application shall (~~(describe)~~) summarize the impacts to each element of the natural or built environment and the means to be utilized to minimize or mitigate possible adverse impacts (~~(on the physical or human environments)~~) during construction, operation, and decommissioning of the proposal, all associated facilities, and any alternatives being brought forward.

(2) Fair treatment. The application shall describe how the proposal's design and mitigation measures ensure that no group of people, including any racial, ethnic, or socioeconomic group, bear a disproportionate share of the environmental or socioeconomic impacts resulting from the construction and operation of the proposed facility.

NEW SECTION

WAC 463-42-101 General—Consultation. (1) Pre-application consultation. The application shall summarize all consultation that the applicant has conducted with local, state and federal agencies and governments, Indian tribes, non-profit organizations and community citizen and interest groups prior to submittal of the application to the council.

(2) Meaningful involvement. The application shall describe all efforts made by the applicant to involve the public, regardless of race, ethnicity, or socioeconomic status, prior to submittal of the application to the council. The application shall also set forth information for contacting local interest and community groups to allow for meaningful involvement of all people, regardless of race, ethnicity or socioeconomic status. For example, such information may include contacts with local minority radio stations and news publications.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-105 General—Graphic material. It is the intent that material submitted pursuant to these guidelines shall be descriptive and shall include illustrative graphics in addition to narration. This requirement shall particularly apply to subject matter that deals with systems, processes, and ~~((spaeial))~~ spatial relationships. The material so submitted shall be prepared in a professional manner and in such form and scale as to be understood by those who may review it.

NEW SECTION

WAC 463-42-116 General—Amendments to applications, additional studies, procedure. (1) Applications to the council for site certification shall be complete and shall reflect the best available current information and intentions of the applicant.

(2) Amendments to a pending application must be presented to the council at least thirty days prior to the commencement of the adjudicative hearing, except as noted in subsection (3) of this section.

(3) Within thirty days after the conclusion of the hearings, the applicant shall submit to the council, application amendments which include all commitments and stipulations made by the applicant during the adjudicative hearings.

(4) After the start of adjudicative hearings, additional environmental studies or other reports shall be admitted only for good cause shown after petitions to the council or upon request of the council, or submitted as a portion of prefiled testimony for a witness at least thirty days prior to appearance.

NEW SECTION

WAC 463-42-117 General—Applications for expedited processing. (1) Request for expedited processing. Requests for expedited processing shall be accompanied by a completed environmental checklist delineated in WAC 197-11-960. The request for expedited processing shall also address the reasons for which the following are not significant enough to warrant a full review of the application for certification under the provisions of chapter 80.50 RCW:

- (a) The environmental impact of the proposed energy facility;
- (b) The area potentially affected;
- (c) The cost and magnitude of the proposed energy facility; and
- (d) The degree to which the proposed energy facility represents a change in use of the proposed site.

(2) Contents. Applications for expediting processing submitted to the council in accordance with the requirements of chapter 463-43 WAC must address all sections of chapters 463-60 and 463-62 WAC.

(3) Fees. The applicant shall submit those fees and costs for independent consultant review and application processing pursuant to RCW 80.50.071 (1)(a) and (b) and chapter 463-58 WAC with the understanding that any unexpended por-

tions shall be returned to the applicant at the completion of application processing.

Subpart B - ProposalAMENDATORY SECTION (Amending Order 82-6, filed 12/22/82)

WAC 463-42-135 Proposal—Legal descriptions and ownership interests. (1) Principal facility~~((:))~~. The application shall contain a legal description of the site to be certified and shall identify the applicants and all nonprivate ownership interests in such land.

(2) ~~((Ancillary))~~ Associated and transmission facilities~~((:))~~. For those facilities described in RCW 80.50.020 (6) and (7) the application shall contain the legal metes and bounds description of the preferred centerline of the corridor necessary to construct and operate the facility contained therein, the width of the corridor, or variations in width between survey stations if appropriate, and shall identify the applicant's and others' ownership interests in lands over which the preferred centerline is described and of those lands lying equidistant for 1/4 mile either side of such center line.

AMENDATORY SECTION (Amending Order 82-6, filed 12/22/82)

WAC 463-42-155 Proposal—Energy transmission systems. ~~((The applicant shall discuss the criteria utilized as well as describe the routing, the conceptual design, and the construction schedule for all facilities identified in RCW 80.50.020 (6) and (7) which are proposed to be constructed.))~~ The application shall identify the federal, state, and industry criteria used in the conceptual design, route selection, and construction for all facilities identified in RCW 80.50.020 (6) and (7), and shall indicate how such criteria are met.

AMENDATORY SECTION (Amending WSR 92-09-013, filed 4/2/92, effective 5/3/92)

WAC 463-42-165 Proposal—Water supply ~~((system))~~. ~~((The applicant shall describe the location and type of water intakes and associated facilities.))~~ (1) Water intake and conveyance facilities. The application shall describe the location and type of water intakes, water lines, pipelines and water conveyance systems, and other associated facilities required for providing water to the energy facility for which certification is being requested.

(2) Water supply and usage alternatives.

(a) The applicant shall consider water supply alternatives, including use of reclaimed water, water reuse projects, and conservation methods. The application shall describe all supply alternatives considered, including the associated cost of implementing such alternatives, and the resulting benefits and penalties that would be incurred.

(b) The application shall include detailed information regarding using air cooling as an alternative to consumptive water use, including associated costs.

(c) The application shall describe water conservation methods that will be used during construction and operation of the facility.

(3) Water rights and authorizations. An applicant proposing to use surface or ground water for the facility shall describe the source and the amount of water required during construction and operation of the energy facility and shall do one or more of the following:

(a) Submit a water use authorization or a contractual right to use water supplied by a municipal corporation or other water purveyor; or

(b) Submit a water right permit or water right certificate issued by the department of ecology for the proposed facility in an amount sufficient to meet the need of the facility. If the permit and/or certificate has been issued five years prior to the submittal date, the applicant shall provide evidence that the water right permit is in good standing, or that the certificate has not relinquished through nonuse; or

(c) For applications for new surface or ground water withdrawals, or applications for water right changes or transfers of existing rights or certificates for withdrawal, the applicant shall submit appropriate application(s) for such rights, certificates or changes in rights and certificates, to the department of ecology prior to submittal of the application for site certification to the council. The application for site certification shall include report(s) of examination, identifying the water rights, or water right changes, submitted to and under review by the department of ecology, the quantities of water in gallons per minute and acre feet per year that are eligible for change, together with any limitations on use, including time of year. The report(s) of examination shall also include comments by the Washington state department of fish and wildlife with respect to the proposed water right applications under review by the department of ecology.

(d) Mitigation. The application shall contain a description of mitigation proposed for water supply, and shall include any and all mitigation required by the department of ecology pursuant to the review of water rights or certificates, or changes to water rights or certificates required in (c) of this subsection.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-175 Proposal—System of heat dissipation. The ((applicant)) application shall describe both the proposed and alternative systems for heat dissipation from the proposed facilities.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-185 Proposal—Characteristics of aquatic discharge systems. (1) Where discharges into a watercourse are involved, the applicant shall identify outfall configurations ((and show proposed locations)) including:

(a) Location(s) of water discharge pipeline or conveyance system, the outfall, and any associated dilution systems;

(b) Average and maximum discharge rate;

(c) Extent of the dilution zone if necessary;

(d) Width of the receiving water body at the outfall location;

(e) Dimension(s), and rated and maximum carrying capacity of the water discharge pipeline or conveyance system, the outfall structure and any associated dilution systems;

(f) Depth and width of the receiving water body at the discharge point;

(g) Average, minimum and maximum water velocity of the receiving water body at the discharge point, and the times when the maximum and minimum flows occur.

(2) Where discharges are into a water-course via an existing discharge system for which certification is not being sought, the applicant shall also provide the following information:

(a) Ownership of the discharge conveyance system;

(b) A description of, and the terms and duration contained in, the use agreement that allows the applicant to use the discharge conveyance system;

(c) Identification of the party responsible for operation and maintenance of the discharge conveyance system;

(d) NPDES or state wastewater discharge permit number for the existing system discharge;

(e) Location of connection point into the existing discharge system;

(f) Diameter and rated and maximum volume capacity of the wastewater line or conveyance system into which discharge is being proposed;

(g) Existing, rated and maximum flow levels in the wastewater line or conveyance system into which the discharge is being proposed;

(h) Where a discharge is proposed to a publicly owned treatment works, in addition to the items provided in subsections (1) and (2) of this section, the applicant shall provide an engineering analysis showing that the proposed discharge will not cause the waste treatment facility to exceed capacities or to violate its authorized discharge limits, including both the quality of the discharge and the volume of the discharge, or to violate the permits governing its operation.

AMENDATORY SECTION (Amending WSR 92-09-013, filed 4/2/92, effective 5/3/92)

WAC 463-42-195 Proposal—Wastewater treatment.

(1) The ((applicant)) application shall describe each wastewater source associated with the facility and for each source, the applicability of all known, available, and reasonable methods of wastewater control and treatment to ensure it meets current waste discharge and water quality regulations.

(2) Where wastewater control involves collection and retention for recycling and/or resource recovery, the applicant shall show in detail the methods selected, including at least the following information:

(a) Waste source(s)((:));

(b) Average and maximum daily amounts and composition of wastes((:));

(c) The type of storage vessel and the storage capacity and duration((:)); and

(d) Any bypass or overflow facilities to the wastewater treatment system(s) or the receiving waters.

(3) Where wastewaters are discharged into receiving waters, the applicant shall provide a detailed description of the proposed treatment system(s), including:

(a) Appropriate flow diagrams and tables showing the sources of all tributary waste streams((:));

(b) Their average and maximum daily amounts and composition((:));

(c) Individual treatment units and their design criteria((:));

(d) Major piping (including all bypasses)((:)); and

(e) Average and maximum daily amounts and composition of effluent(s).

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-205 Proposal—Spillage prevention and control. The ((applicant)) application shall describe all spillage prevention and control measures to be employed regarding accidental and/or unauthorized discharges or emissions, relating such information to specific facilities, including but not limited to locations, amounts, storage duration, mode of handling, and transport. The application shall describe in general detail the content of a Construction Phase and an Operational Phase Spill Prevention, Control and Countermeasure Plan (chapter 40 CFR Part 112 and Hazardous Waste Management Plan) that will be required prior to commencement of construction.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-215 Proposal—Surface-water runoff. The ((applicant)) application shall describe how surface-water runoff and erosion are to be controlled during construction and operation to assure compliance with state water quality standards. The application shall describe in general detail the content of the construction and operational storm water pollution prevention plans that will be prepared prior to commencement of construction and/or operation of the facility.

AMENDATORY SECTION (Amending WSR 92-09-013, filed 4/2/92, effective 5/3/92)

WAC 463-42-225 Proposal—Emission control. (1) The application shall describe and quantify all construction and operational air emissions subject to regulation by local, state or federal agencies.

(2) The application shall identify all construction and operational air emissions that are exempt from local, state and federal regulation, and the regulatory basis for the exemption.

(3) The applicant shall demonstrate that the highest and best practicable treatment for control of emissions will be utilized in facility construction and operation.

(4) The application shall identify all state and federal air emission permits that would be required after approval of the site certification agreement by the governor, and the timeline for submittal of the appropriate applications for such permits.

(5) In the case of fossil-fuel ((power)) fired energy plants, ((petroleum refineries, and transmission and associated facilities, the applicant should deal with products containing sulphur, NO_x, volatile organics, CO, CO₂, aldehydes,

particulates, and any other emissions subject to regulation by local, state, or federal agencies)) the application shall describe and quantify all emissions of greenhouse gases.

(6) In the case of a nuclear-fueled plant, the applicant ((should deal with)) shall address optional plant designs as these may relate to gaseous emissions.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-235 Proposal—Construction and operation activities. The ((applicant)) application shall: Provide the proposed construction schedule, identify the major milestones, and describe activity levels versus time in terms of craft and noncraft employment; and describe the proposed operational employment levels.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-245 Proposal—Construction management. The ((applicant)) application shall describe the organizational structure including the management of project quality and environmental functions.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-255 Proposal—Construction methodology. The ((applicant)) application shall describe in detail the construction procedures, including major equipment, proposed for any construction activity within watercourses, wetlands and other sensitive areas.

AMENDATORY SECTION (Amending WSR 92-09-013, filed 4/2/92, effective 5/3/92)

WAC 463-42-265 Proposal—Protection from natural hazards. The ((applicant)) application shall describe the means to be employed for protection of the facility from earthquakes, volcanic eruption, flood, tsunami, storms, avalanche or landslides, and other major natural disruptive occurrences.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-275 Proposal—Security concerns. The ((applicant)) application shall describe the means employed for protection of the facility from sabotage, terrorism, vandalism and other security threats.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-285 Proposal—Study schedules. The ((applicant)) application shall furnish a brief description of all present or projected schedules for additional environmental studies. The studies descriptions should outline their scope and indicate projected completion dates.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-295 Proposal—Potential for future activities at site. The ~~((applicant))~~ application shall describe the potential for any future additions, expansions, or further activities which might be undertaken by the applicant on or contiguous to the proposed site.

NEW SECTION

WAC 463-42-296 Proposal—Analysis of alternatives. The application shall include an analysis of alternatives for site, route, and other major elements of the proposal.

NEW SECTION

WAC 463-42-297 Proposal—Pertinent federal, state and local requirements. (1) Each application shall include a list of all applicable federal, state, and local statutes, ordinances, rules, permits, and required use authorizations (i.e., leases, easements, rights of way, or similar authorizations) that would apply to the project if it were not under council jurisdiction. For each federal, state, or local requirement, the applicant shall describe how the project would comply or fail to comply. If the proposed project does not comply with a specific requirement, the applicant shall discuss why such compliance should be excused.

(2) Inadvertent failure by the applicant to discover and list a pertinent requirement shall not invalidate the application, but may delay the council's processing of the application.

Subpart C - Natural Environment

AMENDATORY SECTION (Amending WSR 92-23-012, filed 11/6/92, effective 12/7/92)

WAC 463-42-302 Natural environment—Earth. (1) The applicant shall provide detailed descriptions of the existing environment, project impacts, and mitigation measures for the following:

~~((1))~~ (a) **Geology((-).** The ~~((applicant))~~ application shall include the results of a comprehensive geologic survey showing conditions at the site, the nature of foundation materials, and potential seismic activities.

~~((2))~~ (b) **Soils((-).** The ~~((applicant))~~ application shall describe all procedures to be utilized to minimize erosion and other adverse consequences during the removal of vegetation, excavation of borrow pits, foundations and trenches, disposal of surplus materials, and construction of earth fills. The location of such activities shall be described and the quantities of material shall be indicated.

~~((3))~~ (c) **Topography((-).** The ~~((applicant))~~ application shall include contour maps showing the original topography and any changes likely to occur as a result of energy facility construction and related activities. Contour maps showing proposed shoreline or channel changes shall also be furnished.

~~((4))~~ (d) **Unique physical features((-).** The ~~((applicant))~~ application shall list any unusual or unique geologic or

physical features in the project area or areas potentially affected by the project.

~~((5))~~ (e) **Erosion/enlargement of land area (accretion) (-).** The ~~((applicant))~~ application shall identify any potential for erosion, deposition, or change of any land surface, shoreline, beach, or submarine area due to construction activities, placement of permanent or temporary structures, or changes in drainage resulting from construction or placement of facilities associated with construction or operation of the proposed energy project.

(2) The application shall show that the proposed energy facility will comply with the state building code provisions for seismic hazards applicable at the proposed location.

AMENDATORY SECTION (Amending WSR 92-23-012, filed 11/6/92, effective 12/7/92)

WAC 463-42-312 Natural environment—Air. The ~~((applicant))~~ application shall provide detailed descriptions of the affected environment, project impacts, and mitigation measures for the following:

(1) **Air quality((-).** The ~~((applicant))~~ application shall identify all pertinent air pollution control standards. The application shall contain adequate data showing air quality and meteorological conditions at the site. Meteorological data shall include, at least, adequate information about wind direction patterns, air stability, wind velocity patterns, precipitation, humidity, and temperature. The applicant shall describe the means to be utilized to assure compliance with applicable local, state, and federal air quality and emission standards.

(2) **Odor((-).** The ~~((applicant))~~ application shall describe for the area affected((;)) all odors caused by construction or operation of the facility, and shall describe how these are to be minimized or eliminated.

(3) **Climate((-).** The ~~((applicant))~~ application shall describe the extent to which facility operations may cause visible plumes, fogging, misting, icing, or impairment of visibility, and changes in ambient levels caused by all emitted pollutants.

(4) **Dust((-).** The ~~((applicant))~~ application shall describe for any area affected((;)) all dust sources created by construction or operation of the facility, and shall describe how these are to be minimized or eliminated.

AMENDATORY SECTION (Amending WSR 92-23-012, filed 11/6/92, effective 12/7/92)

WAC 463-42-322 Natural environment—Water. (1) The ~~((applicant))~~ application shall provide detailed descriptions of the affected natural water environment, project impacts and proposed mitigation measures, and shall demonstrate that facility construction and/or operational discharges will be compatible with and meet state water quality standards. ~~((The applicant shall indicate the source and the amount of water required during construction and operation of the plant and show that it is available for this use and describe all existing water rights, withdrawal authorizations, or restrictions which relate to the proposed source.~~

(1) (2) **Surface water movement/quality/quantity((-).** The application shall set forth all background water quality

data pertinent to the site, and hydrographic study data and analysis of the receiving waters within one-half mile of any proposed discharge location with regard to: Bottom configuration; minimum, average, and maximum water depths and velocities; water temperature and salinity profiles; anticipated effluent distribution (~~and~~), dilution, and plume characteristics under all discharge conditions; and other relevant characteristics which could influence the impact of any wastes discharged thereto.

~~((2))~~ (3) Runoff/absorption(-). The ~~((applicant))~~ application shall describe how surface water runoff and erosion are to be controlled during construction and operation, how runoff can be reintroduced to the ground for ~~((retention))~~ return to the ground water supply, and to assure compliance with state water quality standards.

~~((3))~~ (4) Floods(-). The ~~((applicant))~~ application shall describe potential for flooding, identify the five, fifty, and one hundred (~~and five hundred~~) year flood boundaries, and describe possible flood impacts at the site, as well as possible flood-related impacts both upstream and downstream of the proposed facility as a result of construction and operation of the facility and all protective measures to prevent possible flood damage to the site and facility.

~~((4))~~ (5) Ground water movement/quantity/quality(-). The ~~((applicant))~~ application shall ~~((include the results of a comprehensive hydrologic survey;))~~ describe the existing ground water ~~((conditions))~~ movement, quality, and quantity on and near the site, and in the vicinity of any points of water withdrawal associated with water supply to the project. The application shall describe any changes in surface and ground water movement, quantity, ~~((or))~~ quality or supply uses which might result from project construction or operation and from ground water withdrawals associated with water supply for the project, and shall provide mitigation for adverse impacts that have been identified.

~~((5))~~ (6) Public water supplies(-). The ~~((applicant))~~ application shall provide a detailed description of any public water supplies which may be used or affected by the project during construction or operation of the facility.

AMENDATORY SECTION (Amending WSR 92-23-012, filed 11/6/92, effective 12/7/92)

WAC 463-42-332 Natural environment—~~((Plants and animals))~~ **Habitat, vegetation, fish and wildlife.** ~~((1))~~ Habitat for and number or diversity of species of plants, fish, or other wildlife—The applicant shall describe all habitat types, vegetation, wetlands, animal life, and aquatic life which might reasonably be affected by construction, operation, or cessation of construction or operation of the energy facility and any associated facilities. Assessment of these factors shall include density and distribution information. The application shall contain a full description of each measure to be taken by the applicant to protect all habitat types, vegetation, wetlands, animal life, and aquatic life from the effects of project construction, operation, abandonment, termination, or cessation of operations.

(2) Unique species—Any endangered species or noteworthy species or habitat shall receive special attention.

~~((3))~~ Fish or wildlife migration routes—The applicant shall identify all fish or wildlife migration routes which may be affected by the energy facility or by any discharge to the environment. The application shall describe all existing habitat types, vegetation, wetlands, fish, wildlife, and in-stream flows on and near the project site which might reasonably be affected by construction, operation, decommissioning, or abandonment of the energy facility and any associated facilities. For purposes of this section, the term "project site" refers to the site for which site certification is being requested, and the location of any associated facilities or their right of way corridors, if applicable. The application shall contain the following information:

(1) Assessment of existing habitats and their use. The application shall include a habitat assessment report prepared by a qualified professional. The report shall contain, but not be limited to, the following information:

(a) A detailed description of habitats and species present on and adjacent to the project site, including identification of habitats and species present, relative cover, density, distribution, and health and vigor;

(b) Identification of any species of local importance, priority species, or endangered, threatened, or candidate species that have a primary association with habitat on or adjacent to the project site;

(c) A discussion of any federal, state, or local special management recommendations, including department of fish and wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

(2) Identification of energy facility impacts. The application shall include a detailed discussion of temporary, permanent, direct and indirect impacts on habitat, species present and their use of the habitat during construction, operation and decommissioning of the energy facility. Impacts shall be quantified in terms of habitat acreage affected, and numbers of individuals affected, threatened or removed. The discussion of impacts shall also include:

(a) Impacts to water quality, stream hydrology and in-stream flows;

(b) Impacts due to introduction, spread, and establishment of noxious or nonnative species;

(c) Impacts and changes to species communities adjacent to the project site;

(d) Impacts to fish and wildlife migration routes;

(e) Impacts to any species of local importance, priority species, or endangered, threatened, or candidate species;

(f) Impacts due to any activities that may otherwise confuse, deter, disrupt or threaten fish or wildlife;

(g) An assessment of risk of collision of avian species with any project structures, during day and night, migration periods, and inclement weather;

(h) An assessment for the potential of impacts of hazardous or toxic materials spills on habitats and wildlife.

(3) Mitigation plan. The application shall include a detailed discussion of mitigation measures, including avoidance, minimization of impacts, and mitigation through compensation or preservation and restoration of existing habitats and species, proposed to compensate for the impacts that have been identified. The mitigation plan shall also:

(a) Be based on sound science;

(b) Address all best management practices to be employed and setbacks to be established;

(c) Address how cumulative impacts associated with the energy facility will be avoided or minimized;

(d) Demonstrate how the mitigation measures will achieve equivalent or greater habitat quality, value and function for those habitats being impacted, as well as for habitats being enhanced, created or protected through mitigation actions;

(e) Identify and quantify level of compensation for impacts to, or losses of, existing species due to project impacts and mitigation measures, including benefits that would occur to existing and new species due to implementation of the mitigation measures;

(f) Address how mitigation measures considered have taken into consideration the probability of success of full and adequate implementation of the mitigation plan;

(g) Identify future use of any manmade ponds or structures created through construction and operation of the facility or associated mitigation measures, and associated beneficial or detrimental impacts to habitats, fish and wildlife;

(h) Discuss the schedule for implementation of the mitigation plan, prior to, during, and post construction and operation;

(i) Discuss ongoing management practices that will protect habitat and species, including proposed monitoring and maintenance programs;

(j) Mitigation plans should give priority to proven mitigation methods. Experimental mitigation techniques and mitigation banking may be considered by the council on a case-by-case basis. Proposals for experimental mitigation techniques and mitigation banking must be supported with analyses demonstrating that compensation will meet or exceed requirements giving consideration to the uncertainty of experimental techniques, and that banking credits meet all applicable state requirements.

(4) Guidelines review. The application shall give due consideration to any project-type specific guidelines established by state and federal agencies for assessment of existing habitat, assessment of impacts, and development of mitigation plans. The application shall describe how such guidelines are satisfied. For example, wind generation proposals shall consider *Washington state department of fish and wildlife Wind Power Guidelines*, August 2003, or as hereafter amended. Other types of energy facilities shall consider department of fish and wildlife Policy M-5002, dated January 18, 1999, or as hereafter amended.

(5) Federal approvals. The application shall list any federal approvals required for habitat, vegetation, fish and wildlife impacts and mitigation, status of such approvals, and federal agency contacts responsible for review.

NEW SECTION

WAC 463-42-333 Natural environment—Wetlands.

The application shall include a report for wetlands prepared by a qualified professional wetland scientist. For purposes of this section, the term "project site" refers to the site for which site certification is being requested, and the location of any

associated facilities or their right of way corridors if applicable. The report shall include, but not be limited to, the following information:

(1) Assessment of existing wetlands present and their quality. The assessment of the presence and quality of existing wetlands shall include:

(a) A wetland delineation performed by a qualified professional according to the *Washington State Wetlands Delineation and Identification Manual*, 1997, and associated data sheets, site maps with data plots and delineated wetlands areas, photographs, and topographic and aerial site maps.

(b) A description of wetland categories found on the site according to the Washington state wetland rating system found in *Western Washington, Ecology Publication #93-74* and *Eastern Washington, Ecology Publication 391-58*, or as revised by the department of ecology.

(c) A discussion of water sources supplying wetlands and documentation of hydrologic regime encountered.

(d) A function assessment report prepared according to the *Washington State Wetland Function Assessment Method* to assess wetlands functions for those wetland types covered by the method, and including a description of type and degree of wetland functions that are provided.

(2) Identification of energy facility impacts. The application shall include a detailed discussion of temporary, permanent, direct and indirect impacts on wetlands, their functions and values, and associated water quality and hydrologic regime during construction, operation and decommissioning of the energy facility. The discussion of impacts shall also include impacts to wetlands due to proposed mitigation measures.

(3) Wetlands mitigation plan. The application shall include a detailed discussion of mitigation measures, including avoidance, minimization of impacts, and mitigation through compensation or preservation and restoration of existing wetlands, proposed to compensate for the direct and indirect impacts that have been identified. The mitigation plan shall be prepared consistent with the *Department of Ecology Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals*, 1994, as revised. The application shall also include, but not be limited to:

(a) A discussion of how standard buffer widths have been incorporated into the mitigation proposal. Variances from standard buffer widths must be supported with professional analyses demonstrating that smaller or averaged buffer widths protect the wetland functions and values based on site-specific characteristics;

(b) A demonstration of how enhancement, restoration or compensatory mitigation actions will achieve equivalent or greater hydrologic and biological functions at the impact site, and whether any existing wetland functions would be reduced by the mitigation measures;

(c) A discussion of how standard mitigation ratios have been incorporated into the mitigation proposal. Variances from standard mitigation ratios must be supported with professional analyses demonstrating that equivalent or greater hydrologic and biological functions will be achieved;

(d) A demonstration that the mitigation actions are being conducted in an appropriate location, and that consideration was given in order of preference to: On-site opportunities;

opportunities within the same subbasin or watershed assessment unit; opportunities within the same Water Resources Inventory Area (WRIA); opportunities in another WRIA;

(e) A discussion of the timing and schedule for implementation of the mitigation plan;

(f) A discussion of ongoing management practices that will protect wetlands, including proposed monitoring and maintenance programs;

(g) Mitigation plans should give priority to proven mitigation methods. Experimental mitigation techniques and mitigation banking may be considered by the council on a case-by-case basis. Proposals for experimental mitigation techniques and mitigation banking must be supported with analyses demonstrating that compensation will meet or exceed requirements giving consideration to the uncertainty of experimental techniques, and that banking credits meet all applicable state requirements.

(4) Federal approvals. The application shall list any federal approvals required for wetlands impacts and mitigation, status of such approvals, and federal agency contacts responsible for review.

AMENDATORY SECTION (Amending WSR 92-23-012, filed 11/6/92, effective 12/7/92)

WAC 463-42-342 Natural environment—Energy and natural resources. (1) Amount required/rate of use/efficiency((-)). The ((applicant)) application shall describe the rate of use and efficiency of consumption of energy and natural resources ((consumption)) during both construction and operation of the proposed ~~((facilities as rate of use and efficiency that can be achieved during construction and operation))~~ facility.

(2) Source/availability((-)). The ((applicant)) application shall describe the sources of supply, locations of use, types, amounts, and availability of energy or resources to be used or consumed during construction and operation of the facility.

(3) Nonrenewable resources((-)). The ((applicant)) application shall describe all nonrenewable resources that will be used, made inaccessible or unusable by construction and operation of the facility.

(4) Conservation and renewable resources((-)). The ((applicant)) application shall describe conservation measures and/or renewable resources which will or could be used during construction and operation of the facility.

(5) Scenic resources((-)). The ((applicant)) application shall describe any scenic resources which may be affected by the facility or discharges from the facility.

Subpart D - Built Environment

AMENDATORY SECTION (Amending WSR 92-23-012, filed 11/6/92, effective 12/7/92)

WAC 463-42-352 Built environment—Environmental health. (1) Noise((-)). The ((applicant)) application shall:

(a) Describe and quantify the background noise environment that would be affected by the energy facility. The number of locations used for assessment of the existing noise environment shall be commensurate with the type of energy

facility being proposed, the impacts expected, and the presence of high density receptor locations in the vicinity of the proposed site.

(b) Identify and quantify the impact of noise emissions resulting from construction and operation ~~((and shall describe the measures to be taken in order to eliminate or lessen this impact))~~ of the energy facility, using appropriate state-of-the-art modeling techniques, and including impacts resulting from low frequency noise;

(c) Identify local, state, and federal environmental noise impact guidelines;

(d) Describe the mitigation measures to be implemented to satisfy WAC 463-62-030;

(e) Describe the means the applicant proposes to employ to assure continued compliance with WAC 463-62-030.

(2) Risk of fire or explosion((-)). The ((applicant)) application shall describe any potential for fire or explosion during construction, operation, standby or nonuse, dismantling, or restoration of the facility and what measures will be made to mitigate any risk of fire or explosion.

(3) Releases or potential releases to the environment affecting public health, such as toxic or hazardous materials((-)). The ((applicant)) application shall describe any potential for release of toxic or hazardous materials to the environment and shall identify plans for complying with the federal Resource Conservation and Recovery Act and the state Dangerous waste regulations (chapter 173-303 WAC). The ((applicant)) application shall describe the treatment or disposition of all solid or semisolid construction and operation wastes including spent fuel, ash, sludge, and bottoms, and show compliance with applicable state and local solid waste regulations.

(4) Safety standards compliance((-)). The ((applicant)) application shall identify all federal, state, and local health and safety standards which would normally be applicable to the construction and operation of a project of this nature and shall describe methods of compliance therewith.

(5) Radiation levels((-)). For facilities which propose to release any radioactive materials, the ((applicant)) application shall set forth information relating to radioactivity. Such information shall include background radiation levels of appropriate receptor media pertinent to the site. The ((applicant)) application shall also describe the proposed radioactive waste treatment process, the anticipated release of radionuclides, their expected distribution and retention in the environment, the pathways which may become sources of radiation exposure, and projected resulting radiation doses to human populations. Other sources of radiation which may be associated with the project shall be described in all applications.

(6) Emergency plans. The application shall describe emergency plans which will be required to assure the public safety and environmental protection on and off the site in the event of a natural disaster or other major incident relating to or affecting the project as well as identifying the specific responsibilities that will be assumed by the applicant.

AMENDATORY SECTION (Amending WSR 92-23-012, filed 11/6/92, effective 12/7/92)

WAC 463-42-362 Built environment—Land and shoreline use. (1) ~~((The relationship to existing land use plans and to estimated population—As part of))~~ The application ~~((, the applicant))~~ shall ~~((furnish copies of adopted))~~ identify land use plans and zoning ordinances ~~((, including the latest land use regulation and a survey of present land uses within the following distances of the immediate site area:~~

~~((a) In the case of thermal power plants, twenty-five miles radius;~~

~~((b) In the case of petroleum refineries ten miles radius;~~

~~((c) In the case of petroleum or LNG storage areas or underground natural gas storage, ten miles radius from center of storage area or well heads;~~

~~((d) In the case of pipe lines and electrical transmission routes, one mile either side of center line.~~

~~((2) Housing—The applicant shall describe potential impact on housing needs, costs, or availability due to influx of workers for construction and/or operation of the facility)) applicable to the project site.~~

~~((3))~~ (2) Light and glare~~((--))~~. The ~~((applicant))~~ application shall describe the impact of light~~((s))~~ and glare from construction and operation and shall describe the measures to be taken in order to eliminate or lessen this impact.

~~((4))~~ (3) Aesthetics~~((--))~~. The ~~((applicant))~~ application shall describe the aesthetic impact of the proposed energy facility and associated facilities and any alteration of surrounding terrain. The presentation will show the location and design of the facilities relative to the physical features of the site in a way that will show how the installation will appear relative to its surroundings. The applicant shall describe the procedures to be utilized to restore or enhance the landscape disturbed during construction (to include temporary roads).

~~((5))~~ (4) Recreation~~((--))~~. The ~~((applicant))~~ application shall list all recreational sites within the area affected by construction and operation of the facility and shall then describe how each will be impacted by construction and operation.

~~((6))~~ (5) Historic and cultural preservation~~((--))~~. The ~~((applicant))~~ application shall coordinate with and provide a list of all historical and archaeological sites within the area affected by construction and operation of the facility ~~((and))~~ to the Washington state office of archaeology and historic preservation and interested tribe(s). The application shall ~~((then))~~;

~~((a) Provide evidence of this coordination;~~

~~((b) Describe how each site will be impacted by construction and operation; and~~

~~((c) Identify what mitigation will be required.~~

~~((7))~~ (6) Agricultural crops/animals~~((--))~~. The ~~((applicant))~~ application shall identify all agricultural crops and animals which could be affected by construction and/or operation of the facility and any operations, discharges, or wastes which could impact the adjoining agricultural community.

AMENDATORY SECTION (Amending WSR 92-23-012, filed 11/6/92, effective 12/7/92)

WAC 463-42-372 Built environment—Transportation. (1) Transportation systems~~((--))~~. The ~~((applicant))~~ appli-

cation shall identify all permanent transportation facilities impacted by the construction and operation of the energy facilities, the nature of the impacts and the methods to mitigate impacts. Such impact identification, description, and mitigation shall, at least, take into account:

(a) Expected traffic volumes during construction, based on where the work force is expected to reside;

(b) Access routes for moving heavy loads, construction materials, or equipment;

(c) Expected traffic volumes during normal operation of the facility;

(d) For transmission facilities, anticipated maintenance access; and

(e) Consistency with local comprehensive transportation plans.

(2) Vehicular traffic~~((--))~~. The ~~((applicant))~~ application shall describe existing roads, estimate volume, types, and routes of vehicular traffic which will arise from construction and operation of the facility. The applicant shall indicate the applicable standards to be utilized in improving existing roads and in constructing new permanent or temporary roads or access, and shall indicate the final disposition of new roads or access and identify who will maintain them.

(3) Waterborne, rail, and air traffic~~((--))~~. The ~~((applicant))~~ application shall describe existing railroads and other transportation facilities and indicate what additional access, if any, will be needed during planned construction and operation. The applicant shall indicate the applicable standards to be utilized in improving existing transportation facilities and in constructing new permanent or temporary access facilities, and shall indicate the final disposition of new access facilities and identify who will maintain them.

(4) Parking~~((--))~~. The ~~((applicant))~~ application shall identify existing and any additional parking areas or facilities which will be needed during construction and operation of the energy facility, and plans for maintenance and runoff control from the parking areas or facilities.

(5) Movement/circulation of people or goods~~((--))~~. The ~~((applicant))~~ application shall describe any change to the current movement or circulation of people or goods caused by construction or operation of the facility. The ~~((applicant))~~ application shall indicate consideration of multipurpose utilization of rights of way and describe the measures to be employed to utilize, restore, or rehabilitate disturbed areas. The ~~((applicant))~~ application shall describe the means proposed to ensure safe utilization of those areas under applicant's control ~~((on or in which))~~ where public access will be granted during project construction, operation, abandonment, termination, or when operations cease.

(6) Traffic hazards~~((--))~~. The ~~((applicant))~~ application shall identify all hazards to traffic caused by construction or operation of the facility. Except where security restrictions are imposed by the federal government the applicant shall indicate the manner in which fuels and waste products are to be transported to and from the facility, including a designation of the specific routes to be utilized.

AMENDATORY SECTION (Amending WSR 92-23-012, filed 11/6/92, effective 12/7/92)

WAC 463-42-535 Socioeconomic impact. The ~~((applicant))~~ application shall ~~((submit))~~ include a detailed socioeconomic impact ~~((study))~~ analysis which identifies primary ~~((and))~~, secondary ~~((and))~~, positive as well as negative impacts on the socioeconomic environment in the area potentially affected by the project, with particular attention ~~((and analysis of))~~ to the impact of the proposed facility on population, work force~~((s))~~, property values, housing, ~~((traffic))~~ health ~~((and safety))~~ facilities and services, education facilities ~~((and))~~, governmental services, and local economy. The study area shall include the area that may be affected by employment within a one-hour commute distance of the project site. The analysis shall use the most recent data as published by the U.S. Census or state of Washington sources.

(1) The analysis shall include:

(a) Population and growth rate data for the most current ten-year period for the county or counties and incorporated cities in the study area;

(b) Published forecast population figures for the study area for both the construction and operations periods;

(c) Numbers and percentages describing the race/ethnic composition of the cities and counties in the study area;

(d) Average per capita and household incomes, including the number and percentage of the population below the poverty level for the cities and counties within the study area;

(e) A description of whether or not any minority or low-income populations would be displaced by this project or disproportionately impacted;

(f) The average annual work force size, total number of employed workers, and the number and percentage of unemployed workers including the year that data are most recently available. Employment numbers and percentage of the total work force should be provided for the primary employment sectors;

(g) An estimate by month of the average size of the project construction, operational work force by trade, and work force peak periods;

(h) An analysis of whether or not the locally available work force would be sufficient to meet the anticipated demand for direct workers and an estimate of the number of construction and operation workers that would be hired from outside of the study area if the locally available work force would not meet the demand;

(i) A list of the required trades for the proposed project construction;

(j) An estimate of how many direct or indirect operation and maintenance workers (including family members and/or dependents) would temporarily relocate;

(k) An estimate of how many workers would potentially commute on a daily basis and where they would originate.

(2) The application shall describe the potential impact on housing needs, costs, or availability due to the influx of workers for construction and operation of the facility and include the following:

(a) Housing data from the most recent ten-year period that data are available, including the total number of housing units in the study area, number of units occupied, number and percentage of units vacant, median home value, and median

gross rent. A description of the available hotels, motels, bed and breakfasts, campgrounds or other recreational facilities;

(b) How and where the direct construction and indirect work force would likely be housed. A description of the potential impacts on area hotels, motels, bed and breakfasts, campgrounds and recreational facilities;

(c) Whether or not meeting the direct construction and indirect work force's housing needs might constrain the housing market for existing residents and whether or not increased demand could lead to increased median housing values or median gross rents and/or new housing construction. Describe mitigation plans, if needed, to meet shortfalls in housing needs for these direct and indirect work forces.

(3) The application shall have an analysis of the economic factors including the following:

(a) The approximate average hourly wage that would likely be paid to construction and operational workers, how these wage levels vary from existing wage levels in the study area, and estimate the expendable income that direct workers would likely spend within the study area;

(b) How much, and what types of direct and indirect taxes would be paid during construction and operation of the project and which jurisdictions would receive those tax revenues;

(c) The other overall economic benefits (including mitigation measures) and costs of the project on the economies of the county, the study area and the state, as appropriate, during both the construction and operational periods.

(4) The application shall describe the impacts, relationships, and plans for utilizing or mitigating impacts caused by construction or operation of the facility to the following public facilities and services:

(a) Fire;

(b) Police;

(c) Schools;

(d) Parks or other recreational facilities;

(e) Utilities;

(f) Maintenance;

(g) Communications;

(h) Water/storm water;

(i) Sewer/solid waste;

(j) Other governmental services.

(5) The application shall compare local government revenues generated by the project (e.g., property tax, sales tax, business and occupation tax, payroll taxes) with their additional service expenditures resulting from the project; and identify any potential gaps in expenditures and revenues during both construction and operation of the project. This discussion should also address potential temporal gaps in revenues and expenditures.

(6) To the degree that a project will have a primary or secondary negative impact on any element of the socioeconomic environment, the applicant is encouraged to work with local governments to avoid, minimize, or compensate for the negative impact. The term "local government" is defined to include cities, counties, school districts, fire districts, sewer districts, water districts, irrigation districts, or other special purpose districts.

Subpart E - Applications for Permits and Authorizations

NEW SECTION

WAC 463-42-536 Air emissions permits and authorizations. (1) The application for site certification shall include a completed prevention of significant deterioration permit (PSD) application and a notice of construction application pursuant to the requirements of chapter 463-78 WAC.

(2) The application shall include requests for authorization for any emissions otherwise regulated by local air agencies as identified in WAC 463-60-297 Pertinent federal, state and local requirements.

NEW SECTION

WAC 463-42-537 Wastewater/storm water discharge permit applications. The application for site certification shall include:

(1) A completed National Pollutant Discharge Elimination System (NPDES) permit application, for any proposed discharge to surface waters of the state of Washington, pursuant to the requirements of WAC 463-76-031; or

(2) For any proposed discharge to publicly owned treatment works (POTW) and/or ground water of the state of Washington, a state waste discharge application;

(3) A notice of intent to be covered under any applicable statewide general permit for storm water discharge.

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
463-42-010	463-60-010
463-42-012	463-60-012
463-42-015	463-60-015
463-42-025	463-60-025
463-42-035	463-60-035
463-42-045	463-60-045
463-42-055	463-60-055
463-42-065	463-60-065
463-42-075	463-60-075
463-42-085	463-60-085
463-42-095	463-60-095
463-42-105	463-60-105
463-42-115	463-60-115
463-42-125	463-60-125
463-42-135	463-60-135
463-42-145	463-60-145
463-42-155	463-60-155
463-42-165	463-60-165
463-42-175	463-60-175
463-42-185	463-60-185

Old WAC Number	New WAC Number
463-42-195	463-60-195
463-42-205	463-60-205
463-42-215	463-60-215
463-42-225	463-60-225
463-42-235	463-60-235
463-42-245	463-60-245
463-42-255	463-60-255
463-42-265	463-60-265
463-42-275	463-60-275
463-42-285	463-60-285
463-42-295	463-60-295
463-42-302	463-60-302
463-42-312	463-60-312
463-42-322	463-60-322
463-42-332	463-60-332
463-42-342	463-60-342
463-42-352	463-60-352
463-42-362	463-60-362
463-42-372	463-60-372
463-42-382	463-60-382
463-42-385	463-60-385
463-42-435	463-60-435
463-42-525	463-60-525
463-42-535	463-60-535
463-42-625	463-60-625
463-42-645	463-60-645
463-42-655	463-60-655
463-42-665	463-60-665
463-42-675	463-60-675
463-42-680	463-60-680
463-42-685	463-60-685
463-42-690	463-60-690

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 463-42-382	Built environment—Public services and utilities.
WAC 463-42-385	PSD application.
WAC 463-42-435	NPDES application.
WAC 463-42-525	Emergency plans.
WAC 463-42-625	Criteria, standards, and factors utilized to develop transmission route.
WAC 463-42-645	Analysis of alternatives.
WAC 463-42-655	Initial site restoration plan.

PROPOSED

WAC 463-42-665	Detailed site restoration plan—Terminated projects.
WAC 463-42-675	Site preservation plan—Suspended projects.
WAC 463-42-680	Site restoration—Terminated projects.
WAC 463-42-685	Pertinent federal, state and local requirements.
WAC 463-42-690	Amendments to applications, additional studies, procedure.

Chapter 463-43 WAC

~~((PROCEDURE—APPLICATIONS FOR))~~ EXPEDITED PROCESSING

AMENDATORY SECTION (Amending Order 78-2, filed 4/26/78)

WAC 463-43-010 Purpose ~~((and scope))~~. This chapter sets forth eligibility and processing requirements for ~~((preparation of applications for energy facility site certification which qualify for expedited processing and delineates certain))~~ abbreviated procedures for ~~((processing eligible))~~ applications pursuant to RCW 80.50.075.

AMENDATORY SECTION (Amending Order 78-2, filed 4/26/78)

WAC 463-43-020 Standard application required. An applicant seeking expedited processing shall:

~~(1) Make application pursuant to chapter 463-42 WAC. The application must address all sections of chapter 463-42 WAC in sufficient detail so the council can determine the impacts under WAC 463-43-030,~~

~~(2) Submit those fees for independent consultant review and application processing pursuant to RCW 80.50.071(1)(a) and (b) and chapter 463-58 WAC with the understanding that any unexpended portions thereof shall be returned to the applicant at the completion of application processing, and~~

~~(3) Submit a request for expedited processing to the council at the time of application which shall be accompanied by a completed environmental checklist as delineated in WAC 463-46-365)) submit an application for site certification, fees, and a request for expedited processing as required by RCW 80.50.075.~~

AMENDATORY SECTION (Amending Order 78-2, filed 4/26/78)

WAC 463-43-040 Prior to making a determination of eligibility for expedited processing. The council prior to making a determination of eligibility for expedited processing shall:

(1) Conduct a public informational meeting in the county of the proposed site within ~~((60))~~ sixty days of receipt of an application to provide information to the public concerning the nature and purpose of the energy facility and the review

process to be undertaken by the council and to provide an opportunity for the public to present its views~~((;))~~;

(2) Determine at a public hearing within ~~((60))~~ sixty days of receipt of an application if the proposed site is consistent and in compliance with city, county or regional land use plans ~~((or))~~ and zoning ordinances~~((;))~~;

(3) Review the application pursuant to WAC 463-43-030; in making its review the council may engage pursuant to RCW 80.50.071 (1)(a) an independent consultant to provide an assessment of the application and environmental checklist and to conduct any special study deemed necessary by the council~~((;))~~; and

(4) Initiate processing of the applicant's NPDES application, if required, in accordance with chapter ~~((463-38))~~ 463-76 WAC.

AMENDATORY SECTION (Amending Order 78-2, filed 4/26/78)

WAC 463-43-050 Expedited processing determination. Following the review of an application and land use hearing and within ~~((120))~~ one hundred twenty days of receipt of an application or such later time as is mutually agreed by the applicant and the council, the council ~~((at a regular or special meeting and))~~ by order will grant expedited processing for an application when it has found that:

(1) The proposed site is consistent and in compliance with city, county or regional land use plans ~~((or))~~ and zoning ordinances~~((;))~~; and

(2) The environmental impact, area potentially affected, cost and magnitude, and degree of change in use caused by the proposed energy facility are not significant enough to warrant a full review of an application for certification under the provisions of chapter 80.50 RCW.

AMENDATORY SECTION (Amending WSR 91-03-090, filed 1/18/91, effective 2/18/91)

WAC 463-43-060 Effect of expedited processing. For an application granted expedited processing under WAC 463-43-050 the council shall not:

(1) Conduct any further review of an application by an independent consultant~~((, and))~~;

(2) Hold an adjudicative proceeding ~~((hearing))~~ under chapter 34.05 RCW; and

(3) Continue an adjudicative proceeding that has commenced.

AMENDATORY SECTION (Amending Order 78-2, filed 4/26/78)

WAC 463-43-070 Expedited application processing. The council will prescribe the form, content and necessary supporting documentation for site certification during ~~((regular or special))~~ council meetings ~~((of the council))~~. All interested persons and the counsel for the environment shall be afforded an opportunity to make presentations on the matters herein.

AMENDATORY SECTION (Amending Order 78-2, filed 4/26/78)

WAC 463-43-080 Recommendation—Transmittal to governor. Within ((60)) sixty days following the granting of expedited processing or such later time as is mutually agreed by the applicant and the council, the council shall forward its recommendation, and if the recommendation is for approval ((with)), the council will also forward a copy of ((the)) a draft site certification agreement to the governor.

AMENDATORY SECTION (Amending WSR 98-01-082, filed 12/12/97, effective 1/12/98)

WAC 463-47-020 Adoption by reference. The energy facility site evaluation council adopts the following sections or subsections of chapter 197-11 WAC by reference as of the effective date of this rule.

~~((197-11-049 Definitions-))~~

197-11-050 Lead agency.
 197-11-055 Timing of the SEPA process.
 197-11-060 Content of environmental review.
 197-11-070 Limitations on actions during SEPA process.
 197-11-080 Incomplete or unavailable information.
 197-11-090 Supporting documents.
 197-11-100 Information required of applicants.
 197-11-300 Purpose of this part.
 197-11-305 Categorical exemptions.
 197-11-310 Threshold determination required.
 197-11-315 Environmental checklist.
 197-11-330 Threshold determination process.
 197-11-335 Additional information.
 197-11-340 Determination of nonsignificance (DNS).
 197-11-350 Mitigated DNS.
 197-11-360 Determination of significance (DS)/initiation of scoping.
 197-11-390 Effect of threshold determination.
 197-11-400 Purpose of EIS.
 197-11-402 General requirements.
 197-11-405 EIS types.
 197-11-406 EIS timing.
 197-11-408 Scoping.
 197-11-410 Expanded scoping. (Optional)
 197-11-420 EIS preparation.
 197-11-425 Style and size.
 197-11-430 Format.
 197-11-435 Cover letter or memo.
 197-11-440 EIS contents.
 197-11-442 Contents of EIS on nonproject proposals.
 197-11-443 EIS contents when prior nonproject EIS.
 197-11-444 Elements of the environment.

197-11-448 Relationship of EIS to other considerations.
 197-11-450 Cost-benefit analysis.
 197-11-455 Issuance of DEIS.
 197-11-460 Issuance of FEIS.
 197-11-500 Purpose of this part.
 197-11-502 Inviting comment.
 197-11-504 Availability and cost of environmental documents.
 197-11-508 SEPA register.
 197-11-510 Public notice.
 197-11-535 Public hearings and meetings.
 197-11-545 Effect of no comment.
 197-11-550 Specificity of comments.
 197-11-560 FEIS response to comments.
 197-11-570 Consulted agency costs to assist lead agency.
 197-11-600 When to use existing environmental documents.
 197-11-610 Use of NEPA documents.
 197-11-620 Supplemental environmental impact statement—Procedures.
 197-11-625 Addenda—Procedures.
 197-11-630 Adoption—Procedures.
 197-11-635 Incorporation by reference—Procedures.
 197-11-640 Combining documents.
 197-11-650 Purpose of this part.
 197-11-655 Implementation.
 197-11-660 Substantive authority and mitigation.
 197-11-680 Appeals.
 197-11-700 Definitions.
 197-11-702 Act.
 197-11-704 Action.
 197-11-706 Addendum.
 197-11-708 Adoption.
 197-11-710 Affected tribe.
 197-11-712 Affecting.
 197-11-714 Agency.
 197-11-716 Applicant.
 197-11-718 Built environment.
 197-11-720 Categorical exemption.
 197-11-722 Consolidated appeal.
 197-11-724 Consulted agency.
 197-11-726 Cost-benefit analysis.
 197-11-728 County/city.
 197-11-730 Decisionmaker.
 197-11-732 Department.
 197-11-734 Determination of nonsignificance (DNS).
 197-11-736 Determination of significance (DS).

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|------------|---|------------|---|
| 197-11-738 | EIS. | 197-11-924 | Determining the lead agency. |
| 197-11-740 | Environment. | 197-11-926 | Lead agency for governmental proposals. |
| 197-11-742 | Environmental checklist. | 197-11-928 | Lead agency for public and private proposals. |
| 197-11-744 | Environmental document. | 197-11-930 | Lead agency for private projects with one agency with jurisdiction. |
| 197-11-746 | Environmental review. | 197-11-932 | Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city. |
| 197-11-750 | Expanded scoping. | 197-11-934 | Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies. |
| 197-11-752 | Impacts. | 197-11-936 | Lead agency for private projects requiring licenses from more than one state agency. |
| 197-11-754 | Incorporation by reference. | 197-11-938 | Lead agencies for specific proposals. |
| 197-11-756 | Lands covered by water. | 197-11-940 | Transfer of lead agency status to a state agency. |
| 197-11-758 | Lead agency. | 197-11-942 | Agreements on lead agency status. |
| 197-11-760 | License. | 197-11-944 | Agreements on division of lead agency duties. |
| 197-11-762 | Local agency. | 197-11-946 | DOE resolution of lead agency disputes. |
| 197-11-764 | Major action. | 197-11-948 | Assumption of lead agency status. |
| 197-11-766 | Mitigated DNS. | 197-11-950 | Severability. |
| 197-11-768 | Mitigation. | 197-11-955 | Effective date. |
| 197-11-770 | Natural environment. | 197-11-960 | Environmental checklist. |
| 197-11-772 | NEPA. | 197-11-965 | Adoption notice. |
| 197-11-774 | Nonproject. | 197-11-970 | Determination of nonsignificance (DNS). |
| 197-11-776 | Phased review. | 197-11-980 | Determination of significance and scoping notice (DS). |
| 197-11-778 | Preparation. | 197-11-985 | Notice of assumption of lead agency status. |
| 197-11-780 | Private project. | 197-11-990 | Notice of action. |
| 197-11-782 | Probable. | | |
| 197-11-784 | Proposal. | | |
| 197-11-786 | Reasonable alternative. | | |
| 197-11-788 | Responsible official. | | |
| 197-11-790 | SEPA. | | |
| 197-11-792 | Scope. | | |
| 197-11-793 | Scoping. | | |
| 197-11-794 | Significant. | | |
| 197-11-796 | State agency. | | |
| 197-11-797 | Threshold determination. | | |
| 197-11-799 | Underlying governmental action. | | |
| 197-11-800 | Categorical exemptions. | | |
| 197-11-880 | Emergencies. | | |
| 197-11-890 | Petitioning DOE to change exemptions. | | |
| 197-11-900 | Purpose of this part. | | |
| 197-11-902 | Agency SEPA policies. | | |
| 197-11-904 | Agency SEPA procedures. | | |
| 197-11-906 | Content and consistency of agency procedures. | | |
| 197-11-910 | Designation of responsible official. | | |
| 197-11-912 | Procedures on consulted agencies. | | |
| 197-11-914 | SEPA fees and costs. | | |
| 197-11-916 | Application to ongoing actions. | | |
| 197-11-917 | Relationship to chapter 197-10 WAC. | | |
| 197-11-918 | Lack of agency procedures. | | |
| 197-11-920 | Agencies with environmental expertise. | | |
| 197-11-922 | Lead agency rules. | | |

AMENDATORY SECTION (Amending WSR 91-03-090, filed 1/18/91, effective 2/18/91)

WAC 463-47-060 Additional timing considerations.

(1) The council will determine when it receives an application whether the proposal is an "action" and, if so, whether it is "categorically exempt" from SEPA. If the proposal is an action and is not exempt, the council will request the applicant to complete an environmental checklist. A checklist is not needed if the council and applicant agree an EIS is required, SEPA compliance has been completed, SEPA compliance has been initiated by another agency, or a checklist is included with the application. The applicant should also complete an environmental checklist if the council is unsure whether the proposal is exempt.

(2) ~~((The council when it receives an application and environmental checklist will determine whether the council or another agency is SEPA lead agency (see WAC 197-11-050 and 197-11-922 through 197-11-940) within five working days. If the council is not the lead agency, the council shall send the completed environmental checklist, a copy of~~

~~the permit application, to the lead agency, and an explanation of the determination to the identified lead agency.~~

~~(3))~~ The council may initiate an adjudicative proceeding hearing required by RCW ~~((80.50.100))~~ 80.50.090 prior to completion of the draft EIS. The council shall initiate and conclude an adjudicative proceeding ~~((hearing required by RCW 80.50.100))~~ prior to issuance of the final EIS.

AMENDATORY SECTION (Amending WSR 92-09-013, filed 4/2/92, effective 5/3/92)

WAC 463-47-090 EIS preparation. (1) Preparation of draft and final EISs and SEISs is the responsibility of the council ~~((or a council subcommittee)).~~ Before the council issues an EIS, the responsible official shall be satisfied that it complies with these rules and chapter 197-11 WAC.

(2) The council normally will prepare its own draft and final EISs. It may require an applicant to provide information that the council does not possess, including specific investigations. ~~((However, the applicant is not required to supply information that is not required under these rules.))~~

(3) If the council would be unable to prepare a draft and/or final EIS due to its commitments or other constraints ~~((or when a local agency transfers lead agency status to the council under WAC 197-11-940,))~~ the council may allow an applicant the following option for preparation of the draft and/or final EIS for the applicant's proposal:

~~(a) ((The council retains a mutually agreed upon and independent outside party to prepare the document.~~

~~(b))~~ The applicant and the council agree upon a method of funding in which the applicant will bear the expense of the EIS preparation, but the consultant will work directly for the council.

~~((e))~~ (b) The outside party will prepare the document under the supervision of the council or council subcommittee, and the responsible official.

~~((d))~~ (c) Normally, the council will have the documents printed and distributed.

(4) Whenever someone other than the council prepares a draft or final EIS, the council shall:

(a) Direct the areas of research and examination to be undertaken and the content and organization of the document.

(b) Initiate and coordinate scoping, ensuring that the individual preparing the EIS receives all substantive information submitted by any agency or person.

(c) Assist in obtaining information on file with another agency that is needed by the person preparing the EIS.

(d) Allow the person preparing the EIS access to council records relating to the EIS (under chapter 42.17 RCW—Public disclosure and public records law).

AMENDATORY SECTION (Amending WSR 98-01-082, filed 12/12/97, effective 1/12/98)

WAC 463-47-120 Critical areas. In determining whether a proposal is exempt from SEPA, the council shall ~~((respect))~~ consider "critical area" designations made by local governments under WAC 197-11-908.

AMENDATORY SECTION (Amending Order 84-2, filed 9/14/84)

WAC 463-47-130 Threshold levels adopted by cities/counties. In determining whether a proposal is exempt from SEPA, the council shall ~~((inquire of))~~ consider the threshold levels adopted by cities/counties under WAC 197-11-800(1).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 463-47-040 Additional definitions.

Chapter 463-50 WAC

INDEPENDENT CONSULTANTS~~((—GUIDELINES))~~

AMENDATORY SECTION (Amending Order 110, filed 11/16/76)

WAC 463-50-010 Purpose ~~((and scope of this chapter)).~~ ~~((It is the purpose of))~~ This chapter ~~((to publish))~~ establishes guidelines regarding council use of independent consultants.

AMENDATORY SECTION (Amending Order 110, filed 11/16/76)

WAC 463-50-040 Duties to be performed by consultant. The independent consultant shall be primarily responsible for the review and evaluation of information provided by the applicant to determine areas of possible omissions ~~((or)),~~ and may undertake assignments or studies as may be specified or provided for by the contract with the council. The independent consultant may be contracted to:

~~((1))~~ ~~((Review and analyze the site certification application))~~ Prepare a potential site study and supporting documents for compliance with the topical guidelines and for technical veracity, and prepare a criteria document which details the contents of an application for site certification;

~~((2))~~ Review and analyze an energy project site certification application for compliance with the requirements contained in chapter 463-62 WAC (Construction and operation standards for energy facilities) and chapter 463-60 WAC;

~~((3))~~ Identify areas of critical environmental sensitivity~~((s));~~

~~((3))~~ ~~((4))~~ Develop and provide such information as the council may deem essential to an adequate site appraisal; and

~~((4))~~ ~~((5))~~ Provide technical advice to the council during the site certification process.

AMENDATORY SECTION (Amending Order 110, filed 11/16/76)

WAC 463-50-050 Basis for compensation. The basis for compensation to be specified in contracts with independent consultants shall generally be as follows:

(1) For applications for site certification, where the total scope and/or volume of work is variable and acts to prevent

advance determination of total project cost, the consultant shall be compensated on the basis of actual cost plus a net fee for profit((:));

(2) For potential site studies, where the total scope and/or volume of work to be performed can be specified in advance, the consultant shall be compensated on the basis of a lump sum payment.

All payments to independent consultants shall be subject to audit.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 463-50-020 Solicitation of proposals to perform work.

Chapter 463-54 WAC

CERTIFICATION COMPLIANCE ((~~DETERMINATION~~)) MONITORING AND ENFORCEMENT

AMENDATORY SECTION (Amending Order 78-3, filed 6/23/78)

WAC 463-54-010 ((~~Intent and~~)) Purpose ((~~of this chapter~~)). This chapter sets forth rules relating to ((~~effects and compliance determination of energy facility~~)) monitoring the construction and operation of energy facilities to determine compliance with the terms of certification agreements and/or permits pursuant to RCW 80.50.040((~~(1)~~))(9).

AMENDATORY SECTION (Amending WSR 94-16-031, filed 7/26/94, effective 8/26/94)

WAC 463-54-020 Compliance to be determined. Compliance ((~~determination~~)) monitoring procedures shall be implemented by the council as necessary to determine compliance and keep it and the public properly informed as to the status of compliance with the terms of certification agreements((:)) and PSD, NPDES, or other permits issued by the council.

AMENDATORY SECTION (Amending WSR 94-16-031, filed 7/26/94, effective 8/26/94)

WAC 463-54-040 Compliance reports and determinations. Written reports by state agencies, or their authorized representatives reporting to the council under interagency agreements, shall be submitted regularly and contain certifications as to the certificate holder's satisfactory compliance or noncompliance with the appropriate terms of the site certification agreement. Certifications of satisfactory compliance in the absence of compelling evidence to the contrary shall be deemed by the council as bona fide compliance by the certificate holder.

AMENDATORY SECTION (Amending WSR 94-16-031, filed 7/26/94, effective 8/26/94)

WAC 463-54-050 Noncompliance determinations and enforcement. The council shall make ((~~the~~)) a determination of noncompliance with the terms of a certification agreement, PSD, NPDES, or other permits where circumstances so warrant and on such finding of noncompliance will institute appropriate enforcement action.

AMENDATORY SECTION (Amending WSR 94-16-031, filed 7/26/94, effective 8/26/94)

WAC 463-54-060 ((~~Ecology~~)) Monitoring and enforcement—Departments of ecology and health. (1) The council may contract with the department of ecology, or its authorized representative, ((~~is delegated the~~)) to perform monitoring activities pertaining to air and water discharges, except as provided in subsection (2) of this section, and when it reports to the council that appropriate enforcement activities are required relative thereto, the council shall take or initiate action to enforce the terms of the appropriate certification agreement and the incorporated PSD, NPDES, or other permits. Immediate enforcement action as needed may be undertaken by ecology, or its authorized representative, subject to subsequent confirmation or modification by the council.

(2) The council may contract with the department of health ((~~is responsible~~)) for monitoring activities pertaining to radionuclide emissions to the air in accordance with such an ((~~approved memorandum of~~)) agreement. When it reports to the council that appropriate enforcement activities are required relative thereto, the council shall take or initiate action to enforce the terms of the appropriate certification agreement or attached permit. Immediate enforcement action as needed may be undertaken by health subject to subsequent confirmation or modification by the council.

AMENDATORY SECTION (Amending WSR 94-16-031, filed 7/26/94, effective 8/26/94)

WAC 463-54-070 Enforcement actions. ((~~Consistent with RCW 70.94.422, all enforcement actions and penalties for all air emission violations shall be consistent with RCW 70.94.332, 70.94.430, 70.94.431 (1) through (7), and 70.94.435.~~))

(1) General. The council establishes four types of enforcement action in order to provide the council with a range of responses to apparent violations of a site certification agreement or the laws and rules enforced by the council. The range allows the chair or the council to choose an approach which it determines, in its discretion, to be best suited in light of the ((~~apparent~~)) seriousness of an apparent violation, the potential danger to humans or the environment, the willingness and ability of the violator to make required corrections, and the speed with which corrective action should be taken.

(2) Emergency action by chair.

(a) Emergency action is appropriate when the chair or chair's designee believes that the nature of an apparent violation requires action too swiftly to allow for deliberation and

decision by the full council or that action is required pending the completion of other enforcement action.

(b) The chair of the council or the chair's designee is authorized to take immediate action to halt or eliminate any imminent or actual substantial danger to health or welfare of persons or the environment resulting from violation of law or of terms of the site certification agreement, including the release of pollutants from facilities sited under chapter 80.50 RCW. The chair may:

(i) Order the immediate termination of an endangerment or an endangering release and the immediate suspension of a PSD, NPDES, or other permits issued by the council, or order the immediate commencement of corrective action;

(ii) Notify appropriate agencies that protective measures are required immediately to safeguard public health and safety;

(iii) Request the prosecuting attorney of an affected county or the attorney general to take immediate enforcement action for violations of certification agreements or permits pursuant to RCW 80.50.150(6).

(c) The council shall consider any emergency action at a regular or special meeting as soon as practical after the action is taken. It may adopt, rescind, or modify emergency action and may take other enforcement action as specified in this rule. The council retains jurisdiction to maintain or modify emergency action until the circumstances requiring the action are cured to the council's satisfaction or until other enforcement actions supersede the emergency action, whichever first occurs.

(d) If feasible, the council shall allow the subject of emergency action to present its views prior to adopting, affirming, or modifying the action.

(3) Notice of incident and request for assurance of compliance.

(a) A notice of incident is appropriate when the council believes that a violation has occurred; that it is being corrected quickly and effectively by the violator; that the violation caused no substantial danger to humans or the environment; and that a penalty assessment does not appear to be appropriate in light of the seriousness of the violation or as an incentive to secure future compliance.

(b) Whenever the council has probable cause to believe that any term or condition of a certificate agreement or permit has been violated, the council may serve a notice of incident and request for assurance of compliance upon the certificate holder. Within thirty days after service of the notice, the certificate holder shall provide the council with a report of the incident and assurance of compliance, including appropriate measures to preclude a recurrence of the incident. The council shall review the assurance of compliance. It may close out the matter by resolution or take such further action as it believes to be necessary.

(4) Notice of violation.

(a) A notice of violation is appropriate when the council believes: That a violation has occurred; that a violation is not being timely or effectively corrected; that a violation may cause a substantial risk of harm to humans or the environment; or that a penalty may be appropriate as an incentive to future compliance.

(b) Whenever the council has probable cause to believe that a violation of any term or condition of a certificate agreement or permit has occurred, the council may serve upon the certificate holder a notice of violation and may include the assessment of a penalty pursuant to RCW 80.50.150(5) or RCW 74.90.431 if the violation is of the Washington Clean Air Act. The notice shall specify the provisions of law or rule or the certificate agreement or permit which are alleged to have been violated and shall include a requirement that corrective action be taken.

(c) Review procedure. The certificate holder named in a notice of violation may appeal the notice to the council and it may seek remission or mitigation of any penalty.

(i) A request for mitigation or remission of a penalty must be filed within fifteen days after service of the notice of violation. A decision upon a request for remission or mitigation of a penalty is an administrative decision which the council may make in its discretion.

(ii) An appeal of a notice of violation must be filed within thirty days after service of the notice of violation. The appeal is an application for an adjudicative proceeding under RCW 34.05.410. It must be in writing, timely filed in the offices of the council, and state the basis of the contention and exactly what change or remedy is sought from the council. Unless the application is denied or settled, the council shall conduct an adjudicative proceeding upon the challenge pursuant to chapter 34.05 RCW.

(iii) Any penalty imposed in a notice of violation shall be due and payable thirty days after the following: Service of the notice of violation, if no review is sought; service of the council's decision upon remission or mitigation, if no appeal is made; or service of the council's final order on review of an appeal of a notice of violation. If the penalty is not paid when due, the council shall request the attorney general to commence an action in the name of the state to recover the penalty pursuant to RCW 80.50.150.

(5) Air ((~~pollution episodes~~)) emission violations. Consistent with RCW 70.94.422, all enforcement actions and penalties for all air emission violations shall be consistent with RCW 70.94.332, 70.94.430, 70.94.431 (1) through (7), and 70.94.435. The council may enter such orders as authorized by chapter 80.50 RCW regarding air pollution episodes or violations, as set forth in WAC ((463-39-230)) 463-78-230.

(6) NPDES permit violations. In addition to the provisions of this chapter, enforcement actions related to noncompliance with or violations of NPDES permits administered by the council shall be consistent with RCW 80.50.150, chapter 90.48 RCW, and chapter 463-76 WAC.

(7) Judicial enforcement.

(a) Judicial enforcement is available through chapter 80.50 RCW. It is appropriate when the council believes that judicial action may be of substantial assistance in securing present or future compliance or resolution of the underlying problem.

(i) The council may request the attorney general or the prosecuting attorney of any county affected by a violation to commence civil proceedings to enforce the provisions of chapter 80.50 RCW, pursuant to RCW 80.50.150(6).

PROPOSED

(ii) The council may request the prosecuting attorney of any county affected by a violation to commence criminal proceedings to enforce the provisions of chapter 80.50 RCW, pursuant to RCW 80.50.150(6).

(b) The council may also secure judicial enforcement of its rules or orders pursuant to RCW 34.05.578.

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
463-54-010	463-70-010
463-54-020	463-70-020
463-54-030	463-70-030
463-54-040	463-70-040
463-54-050	463-70-050
463-54-060	463-70-060
463-54-070	463-70-070
463-54-080	463-70-080

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 463-54-080	Site preservation or restoration plan.
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AMENDATORY SECTION (Amending Order 78-2, filed 4/26/78)

WAC 463-58-010 (~~Intent and~~) **Purpose** (~~of this chapter~~). This chapter sets forth rules relating to fees or charges for independent consultant (~~study~~) **studies**, regular and expedited application processing, determining compliance and potential site (~~study~~) **studies**.

AMENDATORY SECTION (Amending Order 78-2, filed 4/26/78)

WAC 463-58-020 Fees for the independent consultant (~~study~~) **studies**. Pursuant to RCW 80.50.071, a fee of twenty-five thousand dollars for each proposed site shall accompany the application for an energy facility site certification. This fee shall be applied toward the total cost of the independent consultant study authorized by RCW (~~80.50.070~~) **80.50.071**. The determination of the total fees required for the (~~independent consultant~~) **study** shall generally be as follows:

(1) (~~The consultant selected to perform independent consulting services shall be required to provide the council with an estimate of costs required to complete the study. Upon approval of the estimate by the council, the applicant shall be advised of the costs, totally or by phase, required to complete the study.~~) The council may determine that the initial fee of twenty-five thousand dollars is insufficient to adequately fund the study. If so, the council shall so advise the

applicant and shall furnish an estimate of the supplemental fees needed to complete the study and shall direct the applicant to increase the funds on deposit to cover the anticipated costs. In no event shall the study be allowed to continue if the applicant has not agreed to pay the cost thereof and has not deposited the agreed upon funds;

(2) Should the applicant file amendments or supplements to the application or should the council find that additional study of the application is required, additional cost estimates will be prepared by the consultant and provided to the council. Upon approval of the estimate by the council, the applicant shall be advised of the additional study costs(~~(;)~~);

(3) (~~If the estimate of the costs, as stated in (1) or (2) above, totally or by phase, exceeds twenty five thousand dollars, the applicant shall provide prior approval for the expenditure of such excess amounts, and~~

(~~4~~)) The council shall authorize the independent consultant to initiate evaluation of the application materials or subsequently filed amendatory or supplementary materials when the applicant has (~~provided agreement to pay~~) paid the required costs(~~, and the council has provided the applicant with a statement of amount due~~).

AMENDATORY SECTION (Amending WSR 91-03-090, filed 1/18/91, effective 2/18/91)

WAC 463-58-030 Fees for regular application processing. Pursuant to RCW 80.50.071 each applicant for energy facility site certification shall at the time of application submission deposit twenty thousand dollars for costs related to processing of the application. Such processing costs shall consist of those determined by the council to be reasonable and necessary including:

(1) A hearing examiner(s) who may be retained by the council for the duration of the application processing period or for such portion of the processing period as the council may consider necessary(~~(;)~~);

(2) A court reporter(s) for the recording and preparation of transcripts of an adjudicative proceeding (~~hearing~~), council meetings or public sessions which the council shall consider necessary(~~(;)~~);

(3) Additional staff salaries for those persons employed on the council staff for the duration of the application processing period(~~(;)~~); and

(4) Such overhead and support costs including wages and employee benefits, goods and services, travel expenses within the state and miscellaneous expenses as arise directly from application processing;

(5) The council may determine that the initial fee of twenty thousand dollars is insufficient to fund the council costs. If so, the council shall so advise the applicant and shall request the applicant to increase the funds on deposit to cover the anticipated costs. In no event shall the processing of the application continue if the applicant has not agreed to pay the cost thereof and has not deposited the agreed upon funds.

AMENDATORY SECTION (Amending Order 78-2, filed 4/26/78)

WAC 463-58-040 Fees for expedited application processing. Applicants filing applications for expedited process-

ing under RCW 80.50.075 shall provide fees in accordance with WAC 463-58-020 and 463-58-030 (~~above with the understanding that any unexpended portions thereof shall be returned to the applicant at the completion of application processing~~).

AMENDATORY SECTION (Amending Order 78-2, filed 4/26/78)

WAC 463-58-050 Fees for determining compliance. Pursuant to RCW 80.50.071 (1)(c) each certificate holder shall pay such reasonable costs as are actually and necessarily incurred by the council for inspection and determination of compliance by the certificate holder with the terms and conditions of the certificate. The amount of funds required to be placed on deposit by the certificate holder shall be determined ~~(as follows:~~

~~(1) For the period subsequent to the date of execution of the site certification agreement until the beginning of construction or until the beginning of any work covered by an NPDES permit, five hundred dollars, and~~

~~(2) For the period subsequent to beginning of construction or beginning of any work covered by an NPDES permit, twenty thousand dollars)) by the council and deposited by the applicant within thirty days of the governor's signing the site certification agreement.~~

AMENDATORY SECTION (Amending Order 78-2, filed 4/26/78)

WAC 463-58-060 Fees for potential site ~~(study)~~ studies. A fee of ten thousand dollars shall accompany the study request and be a condition precedent to any action by the council. In the event that the council determines that the initial fee of ten thousand dollars is insufficient to adequately fund the potential site study, the council shall so advise the potential applicant and shall furnish an estimate of the supplemental fees needed to complete the study. In no event shall the study be allowed to continue if the potential applicant has not agreed to pay the cost thereof.

AMENDATORY SECTION (Amending Order 78-2, filed 4/26/78)

WAC 463-58-070 Failure to provide necessary fees. Failure to ~~(provide the initial deposit or subsequently required payments within thirty days following receipt of a statement from the council may)~~ comply with WAC 463-58-020 through 463-58-060 shall result, in the case of an applicant, in suspension of all application processing activities or, in the case of a certificate holder, in suspension of the certification agreement. ~~(At the conclusion of the thirty day period allowed for making necessary payments,)~~ The council will (notify) require any delinquent applicant or certificate holder (to appear at the next regularly scheduled meeting or a subsequent meeting) to show cause why the council should not suspend application processing ((of the certificate) or the site certification agreement. In the event of suspension, action to ((reinstate) consider reinstatement of application processing or the ((certificate) certification agreement will

be taken by the council (~~at the next regularly scheduled meeting~~)) following deposit of all required fees.

AMENDATORY SECTION (Amending Order 78-2, filed 4/26/78)

WAC 463-58-080 Payment, reporting and auditing procedures. (1) ~~((Following payment of initial deposits for application processing and determination of compliance,))~~ The council will provide each applicant or certificate holder a statement of expenditures actually made during the preceding calendar quarter; the statement will be in sufficient detail to explain ((reasonable and necessary)) expenditures made against the deposited funds. Within thirty days of the receipt of the council's statement the applicant or certificate holder will pay an amount necessary to restore the total amount on deposit to the ((originally) level established ((level provided that:

~~(a) An applicant may be requested by the council to increase the amount of funds on deposit to cover anticipated expenses during peak periods of application processing. The council will provide to the applicant written justification for an increased deposit;~~

~~(b)) pursuant to WAC 463-58-020 through 463-58-060.~~

(2) Any funds remaining unexpended ((at the conclusion of application processing)) shall be refunded to the certificate holder, or in the case of an applicant to the applicant or, at the applicant's option, credited against required deposits of a certificate holder((s, and)).

~~((c) If actual reasonable and necessary expenditures for inspection and determination of compliance in a calendar quarter have exceeded the amount of funds on deposit, such excess costs, pursuant to RCW 80.50.071, will be paid by the certificate holder. A statement will be provided to the certificate holder by the council in sufficient detail to provide an adequate explanation of these expenditures.~~

~~(2))~~ (3) All payments shall be made by a cashier's check payable to the state treasurer and delivered to the council office. The council will establish and maintain separate accounts for each application and certificate. All funds will be subject to state auditing procedures. The council will provide copies of such audits to the affected applicants and certificate holders as they are completed by the state auditor.

Chapter 463-62 WAC

CONSTRUCTION AND OPERATION STANDARDS FOR ENERGY FACILITIES

NEW SECTION

WAC 463-62-010 Purpose. (1) The purpose of this chapter is to implement the policy and intent of RCW 80.50.010. This chapter sets forth performance standards and mitigation requirements specific to seismicity, noise limits, fish and wildlife, wetlands, water quality, and air quality, associated with site certification for construction and operation of energy facilities under the jurisdiction of the council.

PROPOSED

(2) The provisions of this chapter shall apply to the construction and operation of energy facilities, pursuant to chapter 80.50 RCW.

(3) Compliance with the standards within this chapter shall satisfy, in their respective subject areas, the requirements for issuance of a site certificate for construction and operation of energy facilities specified in subsection (2) of this section provided, however, that the council may require additional mitigation in the event that documents prepared pursuant to 43.21 RCW (State Environmental Policy Act), demonstrate that the project poses a probable significant adverse impact that is not mitigated by the provisions of this chapter.

NEW SECTION

WAC 463-62-020 Seismicity. The seismicity standard for construction of energy facilities shall be the standards contained in the state building code.

NEW SECTION

WAC 463-62-030 Noise standards. Energy facilities shall meet the noise standards established in chapter 70.107 RCW, the Noise Control Act of 1974; and state rules adopted to implement those requirements in chapter 173-60 WAC, Maximum environmental noise levels.

(1) Adoption by reference. The energy facility site evaluation council adopts the following provisions of chapter 173-60 WAC by reference.

- (a) WAC 173-60-010 Authority and purpose.
 - (b) WAC 173-60-020 Definitions.
 - (c) WAC 173-60-030 Identification of environments.
 - (d) WAC 173-60-040 Maximum permissible environmental noise levels.
 - (e) WAC 173-60-050 Exemptions.
 - (f) WAC 173-60-080 Variances and implementation schedules.
 - (g) WAC 173-60-090 Enforcement policy.
- (2) Additional definitions.
- (a) "Council" means the energy facility site evaluation council.

(b) In addition to the definitions contained in WAC 173-60-020, "department" and "director" shall be synonymous with the council unless a different meaning is plainly required by context.

NEW SECTION

WAC 463-62-040 Fish and wildlife. The council's intent is to achieve no net loss of habitat functions and values by maintaining the functions and values of fish and wildlife habitat in the areas impacted by energy development.

(1) The council encourages applicants to select sites that avoid impacts to any species on federal or state lists of endangered or threatened species or to priority species and habitats.

(2) Standards.

(a) An applicant must demonstrate no net loss of fish and wildlife habitat function and value.

(b) Restoration and enhancement are preferred over creation of habitats due to the difficulty in successfully creating habitat.

(c) Mitigation credits and debits shall be based on a scientifically valid measure of habitat function, value, and area.

(d) The ratios of replacement habitat to impacted habitat shall be greater than 1:1 to compensate for temporal losses, uncertainty of performance, and differences in functions and values.

(e) Wetlands shall be replaced at ratios following the wetland standard established by the council in WAC 463-62-050.

(f) Fish and wildlife surveys shall be conducted during all seasons of the year to determine breeding, summer, winter, migratory usage, and habitat condition of the site.

NEW SECTION

WAC 463-62-050 Impact and mitigation standards for wetlands. (1) The council's intent is to achieve no net loss of wetland areas. Wetland impacts shall be avoided wherever possible. Where impacts cannot be avoided, the applicant shall be required to take one or more of the following actions (in the following order of preference): Restore wetlands on upland sites that were formerly wetlands; create wetlands on disturbed upland sites; enhance significantly degraded wetlands; and preserve high-quality wetlands that are under imminent threat.

(2) Wetland mitigation actions proposed to compensate for project impacts shall not result in a net loss of wetland area except when the lost wetland area provides minimal functions and the mitigation action(s) will clearly result in a significant net gain in wetland functions as determined by a site-specific function assessment.

NEW SECTION

WAC 463-62-060 Water quality. Waste water discharges from projects under the council's jurisdiction shall meet the requirements of applicable state water quality standards, chapter 173-201A WAC, state ground water quality standards, chapter 173-200 WAC, state sediment management standards, chapter 173-204A WAC, requirements of the Federal Water Pollution Control Act as amended (86 Stat 816,33 U.S.C. 1251, et seq.) and regulations promulgated thereunder.

NEW SECTION

WAC 463-62-070 Air quality. Air emissions from energy facilities shall meet the requirements of applicable state air quality laws and regulations promulgated pursuant to the Washington State Clean Air Act, chapter 70.94 RCW, and the Federal Clean Air Act (42 U.S.C. 7401 et seq.), and chapter 463-78 WAC.

Chapter 463-64 WAC

ISSUANCE OF A SITE CERTIFICATION AGREEMENT

NEW SECTION

WAC 463-64-010 Purpose. This chapter sets forth rules relating to reporting recommendations to the governor as to approval or rejection of an application for site certification and the governor's actions regarding approval or rejection of certification or directing reconsideration of certain aspects of certification.

NEW SECTION

WAC 463-64-020 Recommendations to governor—Approval or rejection of certification. The council shall report to the governor its recommendations as to the approval or rejection of an application for certification within twelve months of receipt by the council of such an application, or such later time as is mutually agreed by the council and the applicant. If the council recommends approval of an application for certification, it shall also submit a draft certification agreement with the report. The draft site certification agreement shall include, but shall not be limited to, conditions to protect state or local governmental or community interests affected by the construction or operation of the energy facility, and conditions designed to recognize the purpose of the laws or ordinances, or rules or regulations promulgated thereunder, that are preempted or superseded pursuant to RCW 80.50.110 as now or hereafter amended.

NEW SECTION

WAC 463-64-030 Governor's action—Approval or rejection of certification, or reconsideration. Pursuant to RCW 80.50.100, within sixty days of receipt of the council's report, the governor shall take one of the following actions:

- (1) Approve the application and execute the draft certification agreement; the certification agreement shall be binding upon execution by the governor and the applicant;
- (2) Reject the application; or
- (3) Direct the council to reconsider certain aspects of the draft certification agreement.

NEW SECTION

WAC 463-64-040 Reconsideration of draft certification agreement. If directed by the governor under RCW 80.50.100 (2)(c) to reconsider certain aspects of the draft certification agreement, the council shall:

- (1) Reconsider such aspects of the draft application or, as necessary, reopen the adjudicative proceeding to receive additional evidence. Such reconsideration shall be conducted expeditiously.
- (2) Resubmit the draft certification to the governor incorporating any amendments deemed necessary upon reconsideration.
- (3) Within sixty days of receipt of such draft certification agreement, the governor shall either approve the application

and execute the certification agreement or reject the application. The certification agreement shall be binding upon execution by the governor and the applicant.

NEW SECTION

WAC 463-64-050 Rejection of an application for certification. The rejection of an application for certification by the governor shall be final as to that application but shall not preclude submission of a subsequent application for the same site on the basis of changed conditions or new information.

Chapter 463-68 WAC

SITE CERTIFICATION AGREEMENT—START OF CONSTRUCTION, EXPIRATION, AND REPORTING

NEW SECTION

WAC 463-68-010 Purpose. This chapter sets forth the length of time before a site certification agreement expires if construction is not started, or commercial operation has not commenced, defines what activities constitute start of construction, and specifies the time frame within which a certificateholder must notify the council of the certificateholder's intentions, any project design changes, and the status of the site.

NEW SECTION

WAC 463-68-020 Construction and operation subject to certification conditions. The state of Washington authorizes a certificateholder to construct and operate an energy facility as defined in RCW 80.50.060 and 80.50.020 at the approved site subject to the terms and conditions of the site certification agreement approved by the governor and applicable laws and rules.

NEW SECTION

WAC 463-68-030 Term for start of construction. Subject to conditions in the site certification agreement and this chapter, construction may start any time within ten years of the effective date of the site certification agreement.

NEW SECTION

WAC 463-68-040 Start of construction. Construction shall be deemed to have started with the initiation of any of the following construction activities:

- (1) Site preparation by grading of the site, foundation excavation, or other significant earthwork on the site;
- (2) Construction of footings or foundations, form work, installation of rebar, or pouring concrete for a project's major components or auxiliary structures;
- (3) Excavation for natural gas supply, water supply, water or waste water discharge pipelines or structures;
- (4) Earthwork or construction of access or service roads, electrical transmission lines, switchyard structures, or lay-down areas.

PROPOSED

NEW SECTION

WAC 463-68-050 Submittal of plans and specifications prior to start of construction. At least ninety days prior to start of construction as defined in WAC 463-68-040, a certificateholder shall provide the plans and specifications required by the site certification agreement to the council for approval.

NEW SECTION

WAC 463-68-060 Review and reporting changes in the project status or site conditions. If construction does not both start within five years of the effective date of the site certification agreement and thereupon continue in a reasonably uninterrupted fashion toward project completion, then at least ninety days prior to the end of the five-year period, the certificateholder shall report to the council its intention to proceed or not to proceed with the project. If the certificateholder intends to proceed with the project, the certificateholder shall submit a report to the council describing:

(1) The nature and degree of any changes to the following since the effective date of the site certification agreement:

- (a) Project design;
- (b) Statements and information in the application;
- (c) Statements and information in project-related environmental documents; and
- (d) Project-related environmental conditions.

(2) Whether any new information or changed conditions indicate the existence of probable significant adverse environmental impacts that were not covered in any project-related environmental documents, including, but not limited to, those prepared under chapter 43.21C RCW.

(3) Suggested changes, modification, or amendments to the site certification agreement and/or any regulatory permits.

NEW SECTION

WAC 463-68-070 Review of changes. Under WAC 463-68-060, construction may start, or restart if construction has been suspended, only upon the council finding that no changes or amendments to the site certification agreement, regulatory permits, or project-related environmental documents are necessary or appropriate, or upon the council's approval of any necessary or appropriate changes or amendments. The council may retain an independent consultant, at the certificateholder's expense, to evaluate and make recommendations about whether changes to the site certification agreement, regulatory permits, or project-related environmental documents are necessary or appropriate. This work may include, but is not limited to, verification of project-related environmental conditions, regulatory requirements, or appropriate technology.

NEW SECTION

WAC 463-68-080 Site certification agreement expiration. (1) If the certificateholder does not start or restart construction within ten years of the effective date of the site

certification agreement, or has canceled the project, the site certification agreement shall expire.

(2) If commercial operations have not commenced within ten years of the effective date of the site certification agreement, the site certification agreement expires unless the certificateholder requests, and the council approves, an extension of the term of the site certification agreement.

(3) Upon a request to extend the term of the site certification agreement, the council may conduct a review consistent with the requirements of WAC 463-68-060 and 463-68-070, and other applicable legal requirements.

Chapter 463-72 WAC**SITE RESTORATION AND PRESERVATION**NEW SECTION

WAC 463-72-010 Purpose. This chapter sets forth rules for the content and timing of preparing site restoration or preservation plans for implementation at the conclusion of a plant's operating life; if a project is terminated; or if construction is suspended.

NEW SECTION

WAC 463-72-020 Plan elements. Site restoration or preservation plans shall be prepared in sufficient detail to identify, evaluate, and resolve all major environmental and public health and safety issues, to include provisions for funding or bonding and monitoring. Specific plans shall:

(1) Describe the process and/or assumptions used to evaluate the options considered and the measures selected to restore or preserve the site to protect the environment and all segments of the public against risks and dangers resulting from the site operations and activities.

(2) Address provisions for funding or bonding to meet restoration or preservation costs. Financial assurance shall be provided to ensure that funding is available and sufficient for site restoration or preservation. Such financial assurances shall include evidence of pollution liability insurance coverage in an amount justified for the project, and a site closure bond, sinking fund, or other financial instrument or security in an amount justified in the initial site restoration plan.

(3) Address the scope of monitoring to be conducted during site restoration or preservation and possible continued monitoring to ensure site restoration is achieved.

NEW SECTION

WAC 463-72-030 Council approval and schedules required. The council shall approve all site restoration or preservation plans. Each plan shall include schedules for implementation of the proposed site restoration or preservation activities.

NEW SECTION

WAC 463-72-040 Initial site restoration plan. (1) At least ninety days prior to the beginning of site preparation, the certificate holder shall provide the council with an initial

site restoration plan which addresses site restoration occurring at the conclusion of the plant's operating life, or in the event the project is suspended or terminated during construction or before it has completed its useful operating life.

(2) The plan shall parallel a decommissioning plan, if such a plan is prepared for the project.

(3) The initial site restoration plan shall be prepared in sufficient detail to identify, evaluate, and resolve all major environmental and public health and safety issues presently anticipated. It shall describe the process used to evaluate the options and select measures that will be taken to restore or preserve the site or otherwise protect all segments of the public against risks or danger resulting from the site. The plan shall include a discussion of economic factors regarding the costs and benefits of various restoration options versus the relative public risk and shall address provisions for funding or bonding arrangements to meet the site restoration or management costs. The provision of financial assurances shall include evidence of pollution liability insurance coverage in an amount justified for the project, and a site closure bond, sinking fund, or other financial instrument or security in an amount justified in the plan.

NEW SECTION

WAC 463-72-050 Detailed site restoration plan—Terminated projects. When a project is terminated, a detailed site restoration plan shall be submitted within thirty days from the time the council is notified of the termination. An extension of time may be granted for good cause shown. The site restoration plan shall address the elements required to be addressed in WAC 463-72-040, in detail commensurate with the time until site restoration is to begin. The council will act on the plan at the earliest feasible time and may take or require action as necessary to deal with extraordinary circumstances.

NEW SECTION

WAC 463-72-060 Site preservation plan—Suspended projects. In the event that construction is suspended, a plan for site preservation shall be prepared at the earliest feasible time, as agreed to by the council, and the council shall be advised of interim concerns and the measures being taken to remedy those concerns. The site preservation plan shall address environmental, and public health and safety concerns, the scope of proposed monitoring and the provisions for funding or bonding to meet site preservation costs. It shall describe measures that will be taken to preserve the site or otherwise protect all segments of the public and environment against risks or danger resulting from the site. The preservation plan shall also address options for preservation and the costs and benefits associated with those options. The council will act on the plan at the earliest feasible time and may take or require action as necessary to deal with the extraordinary circumstances.

NEW SECTION

WAC 463-72-070 Site restoration—Terminated projects. In the absence of a council determination as to the

level of site restoration, restoration of the site to a reasonable approximation of its original condition prior to construction shall be required.

NEW SECTION

WAC 463-72-080 Site preservation or restoration plan. When a site is subject to preservation or restoration pursuant to a plan as defined in WAC 463-72-040 through 463-72-060, the certificate holder shall conduct operations within terms of the plan; shall advise the council of unforeseen problems and other emergent circumstances at the site; and shall provide site monitoring pursuant to an authorized schedule. After approval of an initial site restoration plan pursuant to WAC 463-72-040, a certificate holder shall review its site restoration plan in light of relevant new conditions, technologies, and knowledge, and report to the council the results of its review, at least every five years or upon any change in project status. The council may direct the submission of a site preservation or restoration plan at any time during the development, construction, or operating life of a project based upon council's review of the project's status. The council may require such information and take or require such action as is appropriate to protect the environment and all segments of the public against risks or dangers resulting from conditions or activities at the site.

WSR 04-14-016

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed June 28, 2004, 9:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-08-006.

Title of Rule and Other Identifying Information: Chapter 308-56A-250 Signature of registered owner on application—Exceptions, to allow the department to correct a mistake on the record without needing the owner's signature again.

Hearing Location(s): Department of Licensing, Conference Room, 1125 Washington Street S.E., Olympia, WA 98507, on August 13, 2004, at 10:00 a.m.

Date of Intended Adoption: September 7, 2004.

Submit Written Comments to: Dale R. Brown, P.O. Box 2957, 1125 Washington Street S.E., Olympia, WA 98507-2957, e-mail dbrown@dol.wa.gov, fax (360) 902-3827, by August 12, 2004.

Assistance for Persons with Disabilities: Contact Dale R. Brown by August 12, 2004, TTY (360) 664-8885.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To clarify that the agency has authority to correct an error made by the department on a vehicle record without requiring the registered owner to resign the application.

This will have the effect of reducing the time to correct errors detected on vehicle records. It will also save the customer time and effort in case of an error made by the department.

Reasons Supporting Proposal: The department may leave something off or add something to a vehicle record that needs to be corrected. It should be the department's responsibility to correct such errors.

Statutory Authority for Adoption: RCW 46.16.110.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Katherine Iyall Vasquez, 1125 Washington Street S.E., Olympia, WA, (360) 902-3718.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328. The contents of the proposed rules are explicitly and specifically dictated by statute.

June 28, 2004

Steve Boruchowitz

Policy and Projects Office

AMENDATORY SECTION (Amending WSR 03-08-055, filed 3/31/03, effective 5/1/03)

WAC 308-56A-250 Signature of registered owner on application—Exceptions. (1) When is the signature of a registered owner(s) required? Each registered owner is required to sign the application for certificate of ownership **except when:**

(a) The application is for the sole purpose of removing a secured party of record from the certificate of ownership;

(b) Authorized supportive documentation is used in lieu of the signature or signatures;

(c) The legal owner applies for a duplicate certificate of ownership;

(d) There is a statutorily authorized lien filed by a government agency against the vehicle;

(e) An existing legal owner's perfected security interest is transferred to another party and the new secured party is perfecting its security interest;

(f) The department determines from a review of supporting documentation that the vehicle record must be corrected and a new certificate of ownership issued to correct an error made by the department.

(2) When is one signature acceptable on an application for certificate of ownership with multiple registered owners? Only one registered owner's signature is required when:

(a) The last certificate of ownership was issued in another jurisdiction; and

(b) The last certificate of ownership shows multiple registered owners; and

(c) Ownership is not changing.

**WSR 04-14-027
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed June 29, 2004, 12:16 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-110.

Title of Rule and Other Identifying Information: Chapter 296-874 WAC, Scaffolds; chapter 296-24 WAC, Part J-2, Scaffolds; and chapter 296-155 WAC, Part J-1, Scaffolds. The Department of Labor and Industries is proposing to rewrite and clarify requirements relating to scaffolds. This rule making is part of our clear rule-writing initiative to rewrite all of our general occupational safety and health rules for clarity. This proposal will move the scaffold requirements from chapters 296-24 and 296-155 WAC to new chapter 296-874 WAC, Scaffolds.

WAC 296-874-100 Scaffolds scope, 296-874-200 General requirements for scaffolds, 296-874-20002 Make sure scaffolds are properly designed and constructed, 296-874-20004 Make sure scaffolds are erected, moved, altered, or dismantled by

appropriate persons, 296-874-20006 Maintain structural integrity when intermixing scaffold components, 296-874-20008 Make sure platforms are properly planked or decked, 296-874-20010 Make sure platforms meet minimum width requirements, 296-874-20012 Meet these requirements when shorter platforms are used to create a longer platform, 296-874-20014 Lay platform planks properly when the platform changes direction, 296-874-20016 Stabilize the ends of platforms, 296-874-20018 Keep platform sag within acceptable limits, 296-874-20020 Provide safe access to scaffolds, 296-874-20022 Make sure portable, hook-on, and attachable ladders meet these requirements, 296-874-20024 Make sure stairway-type ladders meet these requirements, 296-874-20026 Make sure stair towers meet these requirements, 296-874-20028 Make sure stairrails and handrails meet these requirements, 296-874-20030 Make sure ramps and walkways used to access scaffolds meet these requirements, 296-874-20032 Make sure surfaces used to access scaffolds are close enough to use safely, 296-874-20034 Inspect scaffolds and scaffold components, 296-874-20036 Make sure damaged or weakened scaffolds meet minimum strength requirements, 296-874-20038 Make sure scaffolds are properly loaded, 296-874-20040 Protect employees when moving scaffolds, 296-874-20042 Increase employee working level height on scaffolds safely, 296-874-20044 Control loads being hoisted near scaffolds, 296-874-20046 Protect employees from energized power lines, 296-874-20048 Protect employees from weather hazards, 296-874-20050 Protect employees from slipping and tripping hazards, 296-874-20052 Provide fall protection for employees on scaffolds, 296-874-20054 Provide fall protection if the scaffold is too far from the work face, 296-874-20056 Provide specific fall protection for specific types of scaffolds, 296-874-20058 Make sure personal fall arrest systems meet these requirements, 296-874-20060 Make sure vertical lifelines used with personal fall arrest systems meet these requirements, 296-874-20062 Make sure horizontal lifelines used with personal

fall arrest systems meet these requirements, 296-874-20064 Make sure guardrail systems meet these requirements, 296-874-20066 Provide falling object protection, 296-874-20068 Provide additional support lines on suspended scaffolds using a canopy for falling object protection, 296-874-20070 Make sure toeboards meet these requirements, 296-874-20072 Train employees who work on scaffolds, 296-874-20074 Train employees who erect, dismantle, operate or maintain scaffolds, 296-874-20076 Retrain employees when necessary, 296-874-300 Suspended scaffolds, 296-874-30002 Make sure suspended scaffolds and scaffold components meet these strength requirements, 296-874-30004 Make sure suspended scaffold outrigger beams meet these requirements, 296-874-30006 Make sure counterweights are safe and used properly, 296-874-30008 Make sure tiebacks meet these requirements, 296-874-30010 Make sure suspended scaffold support devices meet these requirements, 296-874-30012 Make sure scaffold hoists meet these requirements, 296-874-30014 Make sure scaffold hoists retain enough suspension rope, 296-874-30016 Make sure wire rope is in good condition, 296-874-30018 Make sure wire suspension rope connections meet these requirements, 296-874-30020 Make sure wire rope clips are used properly, 296-874-30022 Prevent swaying of two-point and multi-point suspension scaffolds, 296-874-30024 Use emergency escape and rescue devices appropriately, 296-874-30026 Protect suspension ropes from heat or corrosive substances, 296-874-30028 Take precautions while welding, 296-874-30030 Prohibit use of gasoline-powered equipment on suspended scaffolds, 296-874-30032 Meet these requirements when using catenary scaffolds, 296-874-30034 Meet these requirements when using float (ship) scaffolds, 296-874-30036 Meet these requirements when using interior hung scaffolds, 296-874-30038 Meet these requirements when using multi-level suspended scaffolds, 296-874-30040 Meet these requirements when using multi-point adjustable suspension scaffolds, 296-874-30042 Meet these requirements when using needle beam scaffolds, 296-874-30044 Meet these requirements when using single-point adjustable suspension scaffolds, 296-874-30046 Meet these requirements when using two-point adjustable suspension scaffolds (swing stages), 296-874-400 Supported scaffolds, 296-874-40002 Make sure supported scaffolds and scaffold components meet strength requirements, 296-874-40004 Prevent supported scaffolds from tipping, 296-874-40006 Make sure supported scaffolds are properly supported, 296-874-40008 Provide safe access for persons erecting or dismantling supported scaffolds, 296-874-40010 Provide fall protection for persons erecting or dismantling supported scaffolds, 296-874-40012 Meet these requirements when moving mobile scaffolds, 296-874-40014 Meet these requirements when using bricklayers' square scaffolds (squares), 296-874-40016 Meet these requirements when using crawling boards (chicken ladders), 296-874-40018 Meet these requirements when using fabricated frame scaffolds (tubular welded frame scaffolds), 296-874-40020 Meet these requirements when using integral prefabricated scaffold access frames, 296-874-40022 Meet these requirements when using form scaffolds and carpenter's bracket scaffolds, 296-874-40024 Meet these requirements when using horse scaffolds, 296-874-40026 Meet these requirements when using ladder jack scaffolds,

296-874-40028 Meet these requirements when using outrigger scaffolds, 296-874-40030 Meet these requirements when using pole scaffolds, 296-874-40032 Meet these requirements when using pump jack scaffolds, 296-874-40034 Meet these requirements when using repair bracket scaffolds, 296-874-40036 Meet these requirements when using roof bracket scaffolds, 296-874-40038 Meet these requirements when using step, platform, and trestle ladder scaffolds, 296-874-40040 Meet these requirements when using tube and coupler scaffolds, 296-874-40042 Meet these requirements when using window jack scaffolds, and 296-874-500 Definitions; and repealing WAC 296-24-860 Scaffolds, 296-24-86005 Definitions applicable to this part, 296-24-86010 General requirements, 296-24-86015 Additional requirements applicable to specific types of scaffolds, 296-24-86020 Training, 296-24-861 Manually propelled mobile ladder stands and scaffolds (towers), 296-24-86105 General requirements, 296-24-86110 Mobile tubular welded frame scaffolds, 296-24-86115 Mobile tubular welded sectional folding scaffolds, 296-24-86120 Mobile tube and coupler scaffolds, 296-24-86125 Mobile work platforms, 296-24-86130 Mobile ladders stands, 296-155-481 Scope and application, 296-155-482 Definitions applicable to this part, 296-155-483 General requirements, 296-155-484 Additional requirements applicable to specific types of scaffolds, 296-155-485 Reserved, 296-155-487 Manually-propelled elevating work platforms, 296-155-488 Self-propelled elevating work platforms, 296-155-489 Boom supported elevating work platforms, 296-155-490 Aerial lifts, 296-155-493 Training, 296-155-494 Non-Mandatory Appendix A to Part J-1, Scaffold Specifications, 296-155-496 Non-Mandatory Appendix C to Part J-1, List of National Consensus Standards, 296-155-497 Non-Mandatory Appendix D to Part J-1, List of Training Topics for Scaffold Elevators and Dismantlers, and 296-155-498 Non-Mandatory Appendix E to Part J-1, Drawings and Illustrations.

Hearing Location(s): Department of Labor and Industries Building, 7273 Linderson Way S.W., Auditorium, Tumwater, WA 98501, on September 17, 2004, at 9:30 a.m.

Date of Intended Adoption: November 1, 2004.

Submit Written Comments to: Carol Stevenson, P.O. Box 44635, Olympia, WA 98504-4635, e-mail stei235@lni.wa.gov, fax (360) 902-5529, by September 21, 2004.

Assistance for Persons with Disabilities: Contact Sally Elliott by September 1, 2004, yous235@lni.wa.gov or (360) 902-5484.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The scaffold rules, in chapters 296-24 and 296-155 WAC contain requirements relating to scaffolds. These requirements will be rewritten and moved into chapter 296-874 WAC, Scaffolds. There are no anticipated effects of this rule making.

Reasons Supporting Proposal: The Department of Labor and Industries is proposing to rewrite and clarify requirements relating to scaffolds. This rule making is part of our plan to rewrite all the safety and health rules for clarity. See also Title of Rule above.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael Silverstein, Tumwater, (360) 902-5495.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A number of criteria and exemptions were established by the small business economic impact statement (SBEIS) analysis. One key criteria that allows rule changes to be exempt from preparation of an SBEIS is presented in RCW 34.05.310 (4)(d): "rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect" are not subject to the SBEIS requirements. Because the proposed rule changes make clarifying and organizational changes for ease of understanding and use, but do not in any way alter the content of the original rules, there should not be an economical impact on Washington state business.

The analysis of the rule reveals that in addition to not imposing new costs on businesses, these revisions will actually make WISHA rules easier for employers and employees to understand and use, and thus actually save them time.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required because the rule is not imposing any new costs to the industry.

June 29, 2004

Paul Trause
Director

Chapter 296-874 WAC

SCAFFOLDS

NEW SECTION

WAC 296-874-100 Scope. This chapter applies to suspended and supported scaffolds.

- Exemption:** This chapter does not apply to:
- Manually propelled elevating work platforms;
 - Self-propelled elevating work platforms;
 - Boom-supported elevating work platforms;
 - Aerial lifts;
 - Crane or derrick suspended personnel platforms;
 - Personnel platforms supported by powered industrial trucks (PITs).

- Reference:** Additional requirements for the following types of platforms are found in general safety and health standards, chapter 296-24 WAC. Go to the following sections:
- For elevating work platforms and aerial lifts, go to elevating work platforms, WAC 296-24-875;
 - For crane or derrick suspended personnel platforms, go to WAC 296-24-23533;
 - For personnel platforms supported by powered industrial trucks (PITs), go to WAC 296-24-230.

Definition:

A **scaffold** is a temporary elevated platform, including its supporting structure and anchorage points, used for supporting employees or materials.

A **suspended scaffold** is one or more platforms suspended from an overhead structure by ropes or other nonrigid means.

A **supported scaffold** is one or more platforms supported by rigid means such as outrigger beams, brackets, poles, legs, uprights, posts, or frames.

NEW SECTION

WAC 296-874-200 General requirements for scaffolds.

Summary:

Your responsibility:

To make sure all scaffolds meet these requirements.

Make sure scaffolds are properly designed and constructed

WAC 296-874-20002.

Make sure scaffolds are erected, moved, altered, or dismantled by appropriate persons

WAC 296-874-20004.

Maintain structural integrity when intermixing scaffold components

WAC 296-874-20006.

Make sure platforms are properly planked or decked

WAC 296-874-20008.

Make sure platforms meet minimum width requirements

WAC 296-874-20010.

Meet these requirements when shorter platforms are used to create a longer platform

WAC 296-874-20012.

Lay platform planks properly when the platform changes direction

WAC 296-874-20014.

Stabilize the ends of platforms

WAC 296-874-20016.

Keep platform sag within acceptable limits

WAC 296-874-20018.

Provide safe access to scaffolds

WAC 296-874-20020.

Make sure portable, hook-on, and attachable ladders meet these requirements

WAC 296-874-20022.

Make sure stairway-type ladders meet these requirements

WAC 296-874-20024.

Make sure stair towers meet these requirements

WAC 296-874-20026.

Make sure stair rails and handrails meet these requirements

WAC 296-874-20028.

Make sure ramps and walkways used to access scaffolds meet these requirements

WAC 296-874-20030.

Make sure surfaces used to access scaffolds are close enough to use safely

WAC 296-874-20032.

Inspect scaffolds and scaffold components

WAC 296-874-20034.

Make sure damaged or weakened scaffolds meet minimum strength requirements

WAC 296-874-20036.

Make sure scaffolds are properly loaded

WAC 296-874-20038.

Protect employees when moving scaffolds

WAC 296-874-20040.

Increase employee working level height on scaffolds safely

WAC 296-874-20042.

Control loads being hoisted near scaffolds

WAC 296-874-20044.

Protect employees from energized power lines

WAC 296-874-20046.

Protect employees from weather hazards

WAC 296-874-20048.

Protect employees from slipping and tripping hazards

WAC 296-874-20050.

Provide fall protection for employees on scaffolds

WAC 296-874-20052.

Provide fall protection if the scaffold is too far from the work face

WAC 296-874-20054.

Provide specific fall protection for specific types of scaffolds

WAC 296-874-20056.

Make sure personal fall arrest systems meet these requirements

WAC 296-874-20058.

Make sure vertical lifelines used with personal fall arrest systems meet these requirements

WAC 296-874-20060.

Make sure horizontal lifelines used with personal fall arrest systems meet these requirements

WAC 296-874-20062.

Make sure guardrail systems meet these requirements

WAC 296-874-20064.

Provide falling object protection

WAC 296-874-20066.

Provide additional support lines on suspended scaffolds using a canopy for falling object protection

WAC 296-874-20068.

Make sure toeboards meet these requirements

WAC 296-874-20070.

Train employees who work on scaffolds

WAC 296-874-20072.

Train employees who erect, dismantle, operate or maintain scaffolds

WAC 296-874-20074.

Retrain employees when necessary

WAC 296-874-20076.

NEW SECTION

WAC 296-874-20002 Make sure scaffolds are properly designed and constructed.

You must:

- Make sure scaffolds are:
 - Designed by a qualified person;

AND

- Constructed according to that design.
- Prohibit the use of shore and lean-to scaffolds.

Definition:

A **qualified person** is one who has demonstrated the ability to solve problems related to the subject matter, work, or project. This can be done by having either:

- A recognized degree, certificate, or professional standing;

OR

- Extensive knowledge, training, and experience.

NEW SECTION

WAC 296-874-20004 Make sure scaffolds are erected, moved, altered, or dismantled by appropriate persons.

You must:

- Make sure scaffolds are erected, moved, altered, or dismantled only when the work is:

- Supervised and directed by a competent and qualified person;

AND

- Done by experienced and trained employees selected by the competent person.

Definition:

A **competent person** is someone who:

- Is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees;

AND

- Has the authority to take prompt corrective measures to eliminate them.

NEW SECTION

WAC 296-874-20006 Maintain structural integrity when intermixing scaffold components.

You must:

- Make sure intermixed scaffold components:

- Fit together without force;

AND

- Maintain the scaffold's structural integrity.

- Make sure a qualified person determines that modifying components in order to intermix them will result in a structurally sound scaffold.

- Make sure scaffold components made of different metals are not used together.

Exemption: Different types of metals may be used together if a competent person determines that galvanic action will not reduce the strength of any component to less than the minimum strength required.

Reference: The minimum strength requirements are found in the following sections:

- Suspended scaffolds, WAC 296-874-30002;
- Supported scaffolds, WAC 296-874-40002.

NEW SECTION

WAC 296-874-20008 Make sure platforms are properly planked or decked.

You must:

- Fully plank or deck each platform between the front uprights and the guardrail supports on all working levels of a scaffold so that there is no more than one inch (2.5 cm):

– Between adjacent units;

AND

– Between the platform and the uprights.

- Exemption:**
- There may be more than one inch between platform units if all of the following are met:
 - You can demonstrate that a wider space is necessary, such as to fit around uprights when side brackets are used to extend the platform width;
 - The platform is planked or decked as fully as possible;
 - The open space between the platform and uprights is nine and one-half inches (24.1 cm) or less.
 - Platforms used solely as walkways or only by employees erecting or dismantling scaffolds do not have to be fully decked or planked if:
 - The planking provided makes for safe working conditions;
- AND
- Employees on those platforms are protected from falling.

You must:

- Make sure wood platforms are not covered with an opaque finish.

Exemption: Platform edges may be covered or marked for identification.

Note: Platforms may be coated periodically with wood preservatives, fire-retardant finishes, or slip-resistant finishes if the coating does not obscure the top or bottom wood surfaces.

NEW SECTION

WAC 296-874-20010 Make sure platforms meet minimum width requirements.

You must:

- Make sure scaffold platforms meet the minimum width requirements of Table 1, Minimum Platform Width.

**Table 1
Minimum Platform Width**

Type of Scaffold	Minimum Platform Width Required
Ladder jack scaffold Pump jack scaffold Roof bracket scaffold Top plate bracket scaffold	12 inches (20 cm)
Boatswains' chair	No minimum width
All other scaffolds	18 inches (46 cm) Exemption: Platforms and walkways may be less than 18 inches (46 cm) wide if all of the following are met: • You can demonstrate that the area is so narrow that the platform or walkway cannot be at least 18 inches (46 cm) wide • The platform or walkway is as wide as feasible

Table 1

Minimum Platform Width

Type of Scaffold	Minimum Platform Width Required
	• Employees on those platforms or walkways are protected from falling by using guardrails or personal fall arrest systems.

NEW SECTION

WAC 296-874-20012 Meet these requirements when using shorter platforms to create a longer platform.

You must:

- Make sure, when platforms are overlapped to create a longer platform, that:
 - The overlap is over a support;

AND

- The platforms are either:

- Overlapped by at least twelve inches (30 cm);

OR

- Are nailed together or otherwise prevented from moving.

- Make sure, when platforms are butted together to create a longer platform, that each abutted platform end rests on a separate support surface.

Note: Platforms may butt together on a common support member if the member is designed to support abutting platforms, such as either:

- A "T" section;

OR

- Hook-on platforms designed to rest on common supports.

NEW SECTION

WAC 296-874-20014 Lay platform planks properly when the platform changes direction.

You must:

- Do the following whenever platforms overlap to change direction:

- First lay the platform that rests on a bearer at an angle other than a right angle;

THEN

- Lay the platform that is perpendicular to the bearer.

NEW SECTION

WAC 296-874-20016 Stabilize the ends of platforms.

You must:

- Make sure each end of a platform:
 - Is cleated or restrained by hooks or equivalent means;
- OR
- Extends over the centerline of its support at least six inches (15 cm).

- Make sure the cantilevered portion of a platform meets at least one of the following:

- Is designed and installed to support employees or material without tipping;
- Has guardrails which block employee access to the cantilevered end;

PROPOSED

- Extends over its support not more than:
 - Twelve inches (30 cm) if the platform length is ten feet or less;

OR

- Eighteen inches (46 cm) if the platform length is greater than ten feet.

Note: The cantilevered portion of a platform is the portion that is not supported on one end.

NEW SECTION

WAC 296-874-20018 Keep platform sag within acceptable limits.

You must:

- Make sure a loaded platform does not sag more than one-sixtieth of the span.

NEW SECTION

WAC 296-874-20020 Provide safe access to scaffolds.

You must:

- Provide scaffold platforms more than two feet (0.6 m) above or below a point of access with at least one of the following means of access:

- Portable, hook-on, or attachable ladder;
- Stairway-type ladder;
- Ladder stand;
- Stair tower (scaffold stairway or tower);
- Ramp;
- Walkway;
- Integral prefabricated scaffold access;
- Direct access from another scaffold, structure, personnel hoist, or similar surface.

- Make sure crossbraces are not used as a means of access.

NEW SECTION

WAC 296-874-20022 Make sure portable, hook-on, and attachable ladders meet these requirements.

You must:

- Position portable, hook-on, and attachable ladders so they do not tip the scaffold.
- Make sure hook-on and attachable ladders meet all of the following:

- Specifically designed and used for that type of scaffold;

- Have rungs that are:

- Uniformly spaced;
- Not more than sixteen and three-quarters inches apart;

- At least eleven and one-half inches (29 cm) long;

- Lined up vertically between rest platforms.

- Position the bottom rung not more than twenty-four inches (61 cm) above the scaffold supporting level.

- Provide rest platforms when using hook-on or attachable ladders on supported scaffolds more than twenty-four feet (7.3 m) high as follows:

- The first rest platform is within twenty-four feet of the ground;

AND

- Additional rest platforms at twenty-foot (6.1 m) maximum vertical intervals.

NEW SECTION

WAC 296-874-20024 Make sure stairway-type ladders meet these requirements.

You must:

- Make sure stairway-type ladders meet all of the following:

- Position the bottom step not more than twenty-four inches (61 cm) above the scaffold supporting level;

- Have rest platforms not more than twelve feet (3.7 m) apart vertically;

- Have slip-resistant surfaces on treads and landings;

- Have steps that:

- Are at least sixteen inches (41 cm) wide;

AND

- Line up vertically between rest platforms.

- Make sure mobile ladder stands have steps that are at least eleven and one-half inches (30 cm) wide.

Definition:

A **ladder stand** is a mobile, fixed-size, self-supporting ladder consisting of a wide flat tread ladder in the form of stairs.

NEW SECTION

WAC 296-874-20026 Make sure stair towers meet these requirements.

You must:

- Make sure stair towers (scaffold stairways or towers) meet all of the following:

- Are positioned so the bottom step is not more than twenty-four inches (61 cm) above the scaffold supporting level;

- Are at least eighteen inches (45.7 cm) wide between stair rails;

- Have slip-resistant surfaces on treads and landing;

- Are installed at an angle of forty to sixty degrees from the horizontal.

- Provide a landing platform at least eighteen inches (45.7 cm) wide by eighteen inches (45.7 cm) long at each level.

- Provide guardrails on the open sides and ends of each landing.

Reference: For requirements about guardrails, go to WAC 296-874-20064.

You must:

- Make sure steps meet all of the following requirements:

- Line up vertically between rest platforms;

- Have uniform tread depth, within one-quarter inch (0.6 cm), for each flight of stairs;

- Have uniform riser height, within one-quarter inch (0.6 cm), for each flight of stairs.

Note: Riser height may have larger variations at the top step and bottom step of the entire stair system, but not at the top and bottom steps within each flight of stairs.

NEW SECTION**WAC 296-874-20028 Make sure stair rails and handrails meet these requirements.****You must:**

- Provide a stair rail that meets all of the following on each side of a scaffold stairway:
 - Has a toprail and midrail;
 - Has a toprail that can serve as a handrail if a separate handrail is not provided;
 - Is at least twenty-eight inches (71 cm) but not more than thirty-seven inches (94 cm) high.

Note: Stair rail height is measured from the upper surface of the stair rail to the surface of the tread, in line with the face of the riser at the forward edge of the tread.

You must:

- Make sure stair rail systems and handrails have:
 - A surface that prevents employees from:
 - Being injured by punctures or lacerations;
- OR**
- Snagging their clothing.
 - Ends that do not create a projection hazard.
- Make sure handrails, and top rails that are used as handrails:
 - Provide an adequate handhold for employees to grasp to avoid falling;
- AND**
- Are at least three inches (7.6 cm) from other objects.

NEW SECTION**WAC 296-874-20030 Make sure ramps and walkways used to access scaffolds meet these requirements.****You must:**

- Make sure ramps and walkways are not inclined at a slope steeper than one vertical in three horizontal (1:3 or twenty degrees from the horizontal).
- Make sure ramps and walkways that are inclined at a slope steeper than one vertical in eight horizontal (1:8) have cleats to provide footing which are:
 - Securely fastened to the planks;
- AND**
- Spaced not more than fourteen inches (35 cm) apart.

Reference: Ramps and walkways that are four feet (1.2 m) or more above a lower level need to have a guardrail system. Those requirements are found in other chapters.

- For general industry activities, go to:
 - Working surfaces, guarding floors and wall openings, ladders, Part J-1, in the general safety and health standards, chapter 296-24 WAC;
- For construction activities, go to:
 - Floor openings, wall openings, and stairways, Part K, in the safety standards for construction work, chapter 296-155 WAC.

NEW SECTION**WAC 296-874-20032 Make sure surfaces used to access scaffolds are close enough to use safely.****You must:**

- Make sure a surface used to provide access to or from a scaffold is not further from the scaffold than:
 - Fourteen inches (36 cm) horizontally;

- Twenty-four inches (61 cm) vertically.

NEW SECTION**WAC 296-874-20034 Inspect scaffolds and scaffold components.****You must:**

- Make sure scaffolds and scaffold components are inspected for visible defects by a competent person:
 - Before each work shift;
- AND**
- After anything occurs that could affect the scaffold's structural integrity.

NEW SECTION**WAC 296-874-20036 Make sure damaged or weakened scaffolds meet minimum strength requirements.****You must:**

- Make sure any scaffold or scaffold component that has been damaged or weakened so that it no longer meets the minimum strength requirements of this chapter, is immediately either:
 - Repaired, replaced, or braced to meet the minimum strength requirements;
- OR**
- Removed from service until repaired.

Reference: For information on minimum strength requirements for suspended and supported scaffolds, go to the following sections within this chapter:

- Make sure suspended scaffolds and scaffold components meet these strength requirements, WAC 296-874-30002;
- Make sure supported scaffolds and scaffold components meet these strength requirements, WAC 296-874-40002.

NEW SECTION**WAC 296-874-20038 Make sure scaffolds are properly loaded. You must:**

- Load scaffolds as specified in the:
 - Manufacturer's instructions;
- OR**
- Design of the qualified person.
- Make sure scaffolds and scaffold components do not exceed their maximum intended load or rated load, whichever is less.

NEW SECTION**WAC 296-874-20040 Protect employees when moving scaffolds. You must:**

- Make sure scaffolds are not moved horizontally while employees are on them.

Exemption: A scaffold may be moved horizontally with employees on it if the scaffold:

- Has been specifically designed for such movement by a registered professional engineer;
- OR**
- Is a mobile scaffold that meets the requirements of the section, Meet these requirements when moving mobile scaffolds, WAC 296-874-40012.

NEW SECTION

WAC 296-874-20042 Increase employee working level height on scaffolds safely.

You must:

- Make sure makeshift devices, such as boxes and barrels, are not used on scaffold platforms to increase the working level height for employees.
- Meet all of the following when using stilts on scaffolds:
 - Use stilts only on large area scaffolds;
 - Increase the height of a guardrail system used for fall protection by an amount equal to the height of the stilts being used;
 - Make sure scaffold platforms where stilts are used are flat and free of:
 - Pits, holes, and obstructions such as debris;
- AND
- Other tripping or falling hazards.
- Make sure stilts are:
 - Properly maintained;
- AND
- The original equipment is not altered without the manufacturer's approval.
- Meet all of the following when using ladders on scaffolds:
 - Use ladders only on large area scaffolds;
 - Secure the platform units to the scaffold to prevent movement;
 - Secure the scaffold against the sideways thrust exerted by the ladder if the ladder is placed against a structure that's not part of the scaffold;
 - Make sure the ladder legs are:
 - Secured to prevent them from slipping or being pushed off the platform;
- AND
- On the same scaffold platform, or use other means, to stabilize the ladder against uneven platform deflection.

NEW SECTION

WAC 296-874-20044 Control loads being hoisted near scaffolds.

You must:

- Use a tag line or equivalent measures to control loads being hoisted onto or near a scaffold if the load could swing and contact the scaffold.

NEW SECTION

WAC 296-874-20046 Protect employees from energized power lines.

You must:

- Make sure scaffolds are erected, moved, altered, or dismantled so that they, and any conductive material handled on them, are kept at least as far from exposed and energized power lines as shown in Table 2, Minimum Separation Distance from Energized Power Lines.

Table 2

Minimum Separation Distance from Energized Power Lines

Voltage	Minimum Separation Distance
Less than 300 volts (insulated lines)	3 feet (0.9 m)
Less than 300 volts (uninsulated lines)	10 feet (3.1 m)
300 volts to 50 kv	10 feet (3.1 m)
More than 50 kv	10 feet (3.1 m) + 0.4 inches (1.0 cm) for each 1 kv over 50 kv Note: You may use an alternative minimum separation distance of 2 times the length of the line insulator, but never less than 10 feet (3.1 m).

- Exemption:** Scaffolds and conductive materials handled on scaffolds may be closer to power lines than the minimum separation distance specified in Table 2 if all of the following are met:
- Less clearance is necessary to do the work;
 - The utility company or electrical system operator has been notified of the need to work closer to the power lines;
 - The utility company or electrical system operator has done at least one of the following:
 - Deenergized the lines;
 - Relocated the lines to meet the minimum separation distance requirement;
 - Installed protective coverings over the lines to prevent accidental contact.

NEW SECTION

WAC 296-874-20048 Protect employees from weather hazards.

You must:

- Prohibit work on or from scaffolds during storms or high winds unless both of the following are met:
 - A competent person has determined that it is safe for employees to be on the scaffold;
 - The employees are protected by either:
 - A personal fall arrest system;
- OR
- Wind screens.
- Make sure wind screens are not used unless the scaffold is secured against the anticipated wind forces.

NEW SECTION

WAC 296-874-20050 Protect employees from slipping and tripping hazards.

You must:

- Make sure debris does not accumulate on platforms.
- Prohibit employees from working on scaffolds covered with snow, ice, or other slippery material.

PROPOSED

Exemption: Employees may be on scaffolds as necessary to remove the slipping hazard.

NEW SECTION

WAC 296-874-20052 Provide fall protection for employees on scaffolds.

You must:

- Protect each employee on a scaffold more than ten feet (3.1 m) above a lower level, from falling to the lower level, by providing either:

- A personal fall arrest system;

OR

- Guardrails.

Reference: • Fall protection requirements for employees erecting or dismantling supported scaffolds are found in, WAC 296-874-40010.

• Fall protection requirements for employees erecting or dismantling suspended scaffolds are found in other chapters.

– For general industry activities, go to:

- The general safety and health standards, chapter 296-24 WAC;

- ◆ Find the sections, working surfaces, guarding floors and wall openings, ladders, Part J-1, and powered platforms, Part J-3;

– For construction activities, go to:

- The safety standards for construction work, chapter 296-155 WAC;

- ◆ Find the sections fall restraint and fall arrest, Part C-1 and floor openings, wall openings, and stairways, Part K.

You must:

- Make sure employees erecting the scaffold install the guardrail system before the scaffold is used by any other employees.

NEW SECTION

WAC 296-874-20054 Provide fall protection if a scaffold is too far from the work face.

You must:

- Provide a guardrail system along the front edge of the platform, or have employees use a personal fall arrest system, if the distance from the front edge of the platform to the work face is greater than:

- Three inches (8 cm) for outrigger scaffolds;

- Fourteen inches (36 cm) for all other scaffolds;

- Eighteen inches (46 cm) for plastering and lathing operations.

NEW SECTION

WAC 296-874-20056 Provide specific fall protection for specific types of scaffolds.

You must:

- Use a personal fall arrest system to protect employees on the following scaffolds:

- Boatswains' chair;

- Catenary scaffold;

- Float scaffold;

- Ladder jack scaffold;

- Needle beam scaffold.

- Use a personal fall arrest system and a guardrail system to protect employees on:

- Single-point adjustable suspension scaffolds;

AND

- Two-point adjustable suspension scaffolds.

- Protect employees working on a crawling board (chicken ladder) by using at least one of the following:

- A personal fall arrest system;

- A guardrail system with a minimum two hundred pound toprail capacity;

- A three-quarter inch (1.9 cm) diameter grabline or equivalent handhold securely fastened beside each crawling board.

- Protect employees working on a self-contained adjustable scaffold that has the platform:

- Supported by the frame structure, using a guardrail system with a minimum two hundred pound toprail capacity.

- Suspended by ropes, using:

- A guardrail system with a minimum two hundred pound toprail capacity;

AND

- A personal fall arrest system.

- Protect employees on walkways located within a scaffold by using a guardrail system that meets all of the following:

- Has a minimum two hundred pound toprail capacity;

- Is installed within nine and one-half inches (24.1 cm) of the walkway;

- Is installed along at least one side of the walkway.

NEW SECTION

WAC 296-874-20058 Make sure personal fall arrest systems meet these requirements.

You must:

- Make sure personal fall arrest systems used on scaffolds for general industry activities, meet the requirements of personal fall arrest system, Appendix C, Part 1, WAC 296-24-88050, in powered platforms, Part J-3, found in the general safety and health standards, chapter 296-24 WAC.

- Make sure personal fall arrest systems are attached by a lanyard to one of the following:

- Vertical lifeline;

- Horizontal lifeline;

- Appropriate structural member of the scaffold.

Reference: Requirements for personal fall arrest systems used on scaffolds for construction activities are in fall restraint and fall arrest, Part C-1, found in the safety standards for construction work, chapter 296-155 WAC.

NEW SECTION

WAC 296-874-20060 Make sure vertical lifelines used with personal fall arrest systems meet these requirements.

You must:

- Make sure vertical lifelines are all of the following:

- Fastened to a fixed, safe point of anchorage;

- Independent of the scaffold;

- Protected from sharp edges and abrasion.

- Note:** Safe points of anchorage include structural members of buildings, but do not include:
- Standpipes, vents, or other piping systems;
 - Electrical conduit;
 - Outrigger beams;
 - Counterweights.

You must:

- Make sure vertical lifelines, independent support lines, and suspension ropes are not attached to any of the following:
 - Each other;
 - The same point of anchorage;
 - The same point on the scaffold.
- Make sure vertical lifelines, independent support lines, and suspension ropes do not use the same point of anchorage.
- Make sure independent support lines and suspension ropes are not attached to a personal fall arrest system.
- Make sure vertical lifelines are not used with single-point or two-point adjustable suspension scaffolds that have overhead components such as overhead protection or additional platform levels.

NEW SECTION

WAC 296-874-20062 Make sure horizontal lifelines used with personal fall arrest systems meet these requirements.

You must:

- Equip single-point or two-point adjustable suspension scaffolds that use horizontal lifelines or structural members of the scaffold for fall protection with both of the following:
 - Additional independent support lines that are equal in number and equivalent in strength to the suspension ropes;
 - Automatic locking devices capable of stopping the scaffold from falling if one or both of the suspension ropes fail.
 - Make sure horizontal lifelines are secured to either:
 - Two or more structural members of the scaffold;
- OR**
- Looped around both the suspension ropes and independent support lines above the hoist and brake attached to the end of the scaffold.
 - Make sure independent support lines and suspension ropes are not:
 - Attached to each other or the same point on the scaffold;
 - Attached to or use the same point of anchorage.
 - Make sure independent support lines and suspension ropes are not attached to either:
 - A personal fall arrest system;
- OR**
- The same point on the scaffold as a personal fall arrest system.
 - Make sure, if a horizontal lifeline is used where it may become a vertical lifeline, that the device used to connect a lanyard to the horizontal lifeline is capable of locking in both directions on the lifeline.

NEW SECTION

WAC 296-874-20064 Make sure guardrail systems meet these requirements.

You must:

- Make sure guardrails are installed along all open sides and ends of platforms.

Exemption:

For employees doing overhand bricklaying operations from a supported scaffold, a guardrail is not required on the side next to the wall.

Definition:

Overhand bricklaying is the process of laying bricks and masonry units so that the surface of the wall is on the opposite side of the wall from the mason, requiring the mason to lean over the wall to complete the work. It includes mason tending and electrical installation incorporated into the brick wall.

You must:

- Make sure the height of the toprail top edge, or the equivalent member, of supported scaffolds is:
 - At least thirty-six inches (0.9 m) and not more than forty-five inches (1.2 m) above the platform surface for scaffolds manufactured or first placed in service **before January 1, 2000**;
 - At least thirty-eight inches (0.97 m) and not more than forty-five inches (1.2 m) above the platform surface for scaffolds manufactured or first placed in service **after January 1, 2000**.
- Make sure the height of the toprail top edge, or the equivalent member, of suspended scaffolds that require guardrails and personal fall arrest systems, is at least thirty-six inches (0.9 m) and not more than forty-five inches (1.2 m) above the platform surface.

Exemption:

When conditions warrant, the height of the top edge of the toprail may be greater than forty-five inches if the guardrail system meets all other criteria of this chapter.

You must:

- Make sure the top edge of the toprail doesn't drop below the required height when the minimum load, shown in Table 3, Minimum Toprail and Midrail Strength Requirements, is used.
- Each toprail and midrail, or equivalent member, of a guardrail system must be able to withstand, without failure, the force shown in Table 3, Minimum Toprail and Midrail Strength Requirements, when the force is applied as follows:
 - To the toprail in a downward or horizontal direction at any point along its top edge;
 - To the midrail in a downward or horizontal direction at any point.

Note:

Midrail includes screens, mesh, intermediate vertical members, solid panels, and equivalent structural members of the guardrail system.

**Table 3
Minimum Toprail and Midrail Strength Requirements**

Type of Scaffold	Toprail Capacity	Midrail Capacity
• Single-point adjustable suspension scaffolds	100 pounds (445 n)	75 pounds (333 n)
• Two-point adjustable suspension scaffolds		

PROPOSED

Table 3

Minimum Toprail and Midrail Strength Requirements

Type of Scaffold	Toprail Capacity	Midrail Capacity
• All other scaffolds	200 pounds (890 n)	150 pounds (666 n)
• Walkways within a scaffold		

You must:

- Install midrails, screens, mesh, intermediate vertical members, solid panels, or equivalent structural members as follows:
 - Midrails at a height approximately midway between the top edge of the guardrail system and the platform surface;
 - Screens and mesh:
 - From the top edge of the guardrail system to the scaffold platform;
- AND
 - Along the entire opening between the supports;
 - Intermediate members, such as balusters or additional rails, not more than nineteen inches (48 cm) apart.
- Make sure steel or plastic banding is not used as a toprail or midrail.
- Have a competent person inspect manila rope and plastic or other synthetic rope that is used as a toprail or midrail as frequently as necessary to make sure it continues to meet the strength requirements for a toprail or midrail.

Note: Crossbraces may be used instead of a toprail or midrail if the resulting guardrail system meets the other requirements of this chapter.

You must:

- Make sure guardrails have a surface that prevents:
 - Puncture and laceration injuries;
- AND
 - Snagging clothing.
- Make sure rails don't extend beyond the end posts of the guardrail to create a projection hazard.

NEW SECTION

WAC 296-874-20066 Provide falling object protection.

Reference: Hardhats and possibly other personal protective equipment has to be used to protect employees exposed to overhead hazards.

- Those requirements are found in the safety and health core rules, chapter 296-800 WAC.
- Go to Personal protective equipment (PPE), WAC 296-800-160.

You must:

- Protect employees from being struck by tools, materials, or equipment falling from a scaffold by doing one or more of the following:
 - Use a barricade to keep employees out of the area where falling objects could be a hazard;
 - Install a toeboard along the edge of the platform anywhere an object could fall on an employee below;
 - Install paneling or screening that covers from the top of the guardrail to the toeboard or platform anywhere the toe-

board is **not** high enough to keep objects from falling off the platform;

- Install a guardrail system with openings small enough to keep potential falling objects from passing through;
- Erect a canopy structure, debris net, or catch platform over employees that does all of the following:
 - Will contain or deflect falling objects;
 - Is strong enough to withstand the impact forces;
 - Is installed between the falling object hazard and the employees.
- Make sure potential falling objects that are too large or heavy to be contained or deflected by the falling object protection you are using are:
 - Moved away from the edge of the surface they could fall from;
- AND
 - Secured, as necessary, to prevent falling.

NEW SECTION

WAC 296-874-20068 Provide additional support lines on suspended scaffolds using a canopy for falling object protection.

You must:

- Equip suspended scaffolds, that use a canopy for falling object protection, with additional independent support lines that meet all of the following:
 - Have the same number of support lines as there are suspension ropes;
 - Are equivalent in strength to the suspension ropes;
 - Are not attached to the same point of anchorage as the suspension ropes.

NEW SECTION

WAC 296-874-20070 Make sure toeboards meet these requirements.

You must:

- Make sure toeboards, when used, are:
 - At least three and one-half inches (9 cm) high from the top edge of the toeboard to the platform;
 - Securely fastened along the outer edge of the platform;
 - Installed for enough distance along the platform to protect employees below;
 - Installed so the gap between the bottom of the toeboard and the platform is one-quarter inch (0.7 cm) or less;
 - Solid or with openings that are one inch (2.5 cm) or less in the largest dimension;
 - Able to withstand, without failing, a force of at least fifty pounds (222 n) applied in a downward or horizontal direction anywhere along the toeboard.

Exemption: On float (ship) scaffolds, an edging of three-quarters by one and one-half inch (2 x 4 cm) wood or the equivalent may be used instead of a toeboard.

NEW SECTION

WAC 296-874-20072 Train employees who work on a scaffold.

You must:

PROPOSED

- Have a qualified person train each employee who works on a scaffold to:
 - Recognize the hazards associated with the type of scaffold they are using;

AND

- Understand the procedures to control or minimize the hazards.

- Include the following subjects in your training:

- Hazards in the work area and how to deal with them, including:

- Electrical hazards;
- Fall hazards;
- Falling object hazards;
- How to erect, maintain, and disassemble the fall protection and falling object protection systems being used;
 - How to:
 - Use the scaffold;
 - Handle materials on the scaffold;
 - The load-carrying capacity and maximum intended load of the scaffold;
 - Any other requirements of this chapter that apply.

NEW SECTION

WAC 296-874-20074 Train employees who erect, dismantle, operate or maintain scaffolds.

You must:

- Have a competent person train each employee who erects, disassembles, moves, operates, repairs, maintains, or inspects scaffolds to recognize any hazards associated with the work.
- Make sure the training includes at least the following subjects:
 - Hazards in the work area and how to deal with them;
 - The correct procedures for erecting, disassembling, moving, operating, repairing, inspecting, and maintaining the type of scaffold being used;
 - The design criteria, maximum intended load-carrying capacity and intended use of the scaffold;
 - Any other requirements of this chapter that apply.

NEW SECTION

WAC 296-874-20076 Retrain employees when necessary.

You must:

- Retrain employees to reestablish proficiency if you believe they lack the skill or understanding to safely erect, use, or dismantle a scaffold.
- Retraining is required in at least the following situations:
 - An employee's work involving scaffolds is inadequate and indicates they lack the necessary proficiency;
 - A change in **any** of the following that presents a hazard the employee has not been trained for:
 - Worksite;
 - Type of scaffold;
 - Fall protection;
 - Falling object protection;
 - Other equipment.

NEW SECTION

WAC 296-874-300 Suspended scaffolds.

Summary:

Your responsibility:

To meet these requirements when using suspended scaffolds.

Make sure suspended scaffolds and scaffold components meet these strength requirements

WAC 296-874-30002.

Make sure suspended scaffold outrigger beams meet these requirements

WAC 296-874-30004.

Make sure counterweights are safe and used properly

WAC 296-874-30006.

Make sure tiebacks meet these requirements

WAC 296-874-30008.

Make sure suspended scaffold support devices meet these requirements

WAC 296-874-30010.

Make sure scaffold hoists meet these requirements

WAC 296-874-30012.

Make sure scaffold hoists retain enough suspension rope

WAC 296-874-30014.

Make sure wire rope is in good condition

WAC 296-874-30016.

Make sure wire suspension rope connections meet these requirements

WAC 296-874-30018.

Make sure wire rope clips are used properly

WAC 296-874-30020.

Prevent swaying of two-point and multipoint suspension scaffolds

WAC 296-874-30022.

Use emergency escape and rescue devices appropriately

WAC 296-874-30024.

Protect suspension ropes from heat or corrosive substances

WAC 296-874-30026.

Take precautions while welding

WAC 296-874-30028.

Prohibit use of gasoline-powered equipment on suspended scaffolds

WAC 296-874-30030.

Meet these requirements when using catenary scaffolds

WAC 296-874-30032.

Meet these requirements when using float (ship) scaffolds

WAC 296-874-30034.

Meet these requirements when using interior hung scaffolds

WAC 296-874-30036.

Meet these requirements when using multilevel suspended scaffolds

WAC 296-874-30038.

Meet these requirements when using multipoint adjustable suspension scaffolds

WAC 296-874-30040.

Meet these requirements when using needle beam scaffolds

WAC 296-874-30042.

Meet these requirements when using single-point adjustable suspension scaffolds
WAC 296-874-30044.

Meet these requirements when using two-point adjustable suspension scaffolds (swing stages)
WAC 296-874-30046.

NEW SECTION

WAC 296-874-30002 Make sure suspended scaffolds and scaffold components meet these strength requirements.

You must:

- Meet the following strength requirements:
 - Suspended scaffolds must support, without failure, the total of their own weight plus four times the maximum intended load;
 - Suspended scaffold components must meet the requirements contained in Table 4, Suspended Scaffold Strength Requirements.
 - Surfaces that support scaffold support devices must withstand the **greater of**:
 - Four times the load placed on them with the scaffold operating at the rated load of the hoist;
- OR**
- 1.5 times the load placed on them with the scaffold operating at the stall capacity of the hoist.

Note: Scaffold support devices include outrigger beams, cornice hooks, parapet clamps, and similar devices.

**Table 4
Suspended Scaffold Strength Requirements**

These scaffold components:	Must meet these strength requirements:
Adjustable scaffold – Suspension ropes, including connecting hardware	Support 6 times the maximum intended load applied or transmitted to the rope with the scaffold operating at the greater of either: – The rated load of the hoist OR – 2 times the stall load of the hoist
Adjustable scaffold – Direct connections to roofs and floors – Counterweights used to balance the scaffold	Resist the greater of either: – 4 times the tipping moment with the scaffold operating at the rated load of the hoist OR – 1.5 times the tipping moment with the scaffold operating at the stall load of the hoist
Nonadjustable scaffold – Suspension ropes, including connecting hardware	Support 6 times the maximum intended load applied or transmitted to the rope

Table 4

Suspended Scaffold Strength Requirements

These scaffold components:	Must meet these strength requirements:
All other scaffold components	Support its own weight plus 4 times the maximum intended load

NEW SECTION

WAC 296-874-30004 Make sure suspended scaffold outrigger beams meet these requirements.

You must:

- Make sure outrigger beams are made of structural metal or equivalent strength material.
 - Stabilize the inboard ends of outrigger beams by using either:
 - Bolts or other direct connections to the floor or roof deck;
- OR**
- Counterweights and tiebacks.
- Exemption:** Masons' multipoint adjustable scaffold outrigger beams cannot be stabilized by counterweights.

You must:

- Make sure, before the scaffold is used, that a competent person:
 - Evaluates the direct connections;
- AND**
- Confirms that the supporting surfaces can support the loads placed on them.
 - Make sure suspended scaffold outrigger beams are all of the following:
 - Restrained to prevent moving;
 - Provided with stop bolts or shackles at both ends;
 - Securely fastened together with the flanges turned out when channel iron beams are used in place of I-beams;
 - Set and maintained with the web in a vertical position;
 - Placed so the suspension rope is centered over the stirrup.
 - Place outrigger beams at a right angle (perpendicular) to their bearing support.
- Exemption:** Outrigger beams can be placed at other than a right angle (perpendicular) if:
- You can demonstrate that immovable obstructions make it impossible to place the beams at a right angle (perpendicular) to their bearing support;
- AND**
- Opposing angle tiebacks are used.
- Note:** The bearing support is usually the face of the building or structure.

NEW SECTION

WAC 296-874-30006 Make sure counterweights are safe and used properly.

You must:

- Make sure counterweights:
 - Are made of material that cannot flow;
- AND**
- Have been specifically designed to be used as counterweights.

PROPOSED

- Note:** The following cannot be used as counterweights:
- Sand, gravel and similar materials that can be easily dislocated;
 - Construction material such as masonry units and roofing felt.

You must:

- Secure counterweights to outrigger beams by mechanical means to prevent them from being accidentally detached.
- Leave counterweights attached to the outrigger beams until after the scaffold has been disassembled.

NEW SECTION**WAC 296-874-30008 Make sure tiebacks meet these requirements.****You must:**

- Make sure tiebacks are equivalent in strength to the suspension ropes.
 - Make sure tiebacks are secured to a structurally sound anchorage on the building or structure and installed:
 - At a right angle (perpendicular) to the face of the building or structure;
- OR**
- As opposing angle tiebacks.

NEW SECTION**WAC 296-874-30010 Make sure suspended scaffold support devices meet these requirements.****You must:**

- Make sure suspended scaffold support devices, such as cornice hooks, roof hooks, roof irons, parapet clamps, or similar devices, are:
 - Made of steel, wrought iron, or other material of equivalent strength;
 - Supported by bearing blocks;
 - Prevented from moving by using tiebacks.

- Reference:**
- For outrigger beam requirements, go to WAC 296-874-30004;
 - For tieback requirements go to WAC 296-874-30008.

NEW SECTION**WAC 296-874-30012 Make sure scaffold hoists meet these requirements.****You must:**

- Make sure the stall load of any scaffold hoist is **not** more than three times its rated load.
 - Make sure scaffold hoists have been tested by a qualified testing laboratory.
 - Make sure scaffold hoists have both a:
 - Normal operating brake;
- AND**
- Braking device or locking pawl which automatically engages when the hoist has an uncontrolled:
 - Instantaneous change in momentum;
- OR**
- An accelerated overspeed.
 - Prohibit use of gasoline-powered hoists on suspended scaffolds.
 - Enclose the gears and brakes of power-operated hoists used on suspended scaffolds.

- Make sure manually operated hoists need a positive crank force to descend.

NEW SECTION**WAC 296-874-30014 Make sure scaffold hoists retain enough suspension rope.****You must:**

- Make sure the suspension rope on winding drum hoists is long enough to wrap around the drum at least four times when the scaffold is at its lowest point of travel.
 - Make sure the suspension rope on hoists that do **not** use a winding drum:
 - Is long enough to allow the scaffold to be lowered to the level below without the rope end passing through the hoist;
- OR**
- Has the rope end configured, or uses other means, to prevent it from passing through the hoist.

NEW SECTION**WAC 296-874-30016 Make sure wire rope is in good condition.****You must:**

- Make sure a competent person inspects each rope for defects:
 - Before each work shift;
- AND**
- After anything happens that could affect the rope's integrity.
 - Replace a rope if it has any of the following:
 - Physical damage which impairs the function and strength of the rope;
 - Kinks that could impair the tracking or wrapping of the rope around a drum or sheave;
 - Six randomly distributed broken wires in one rope lay;
 - Three broken wires in one strand of one rope lay;
 - Loss of more than one-third of the original diameter of the outside wires caused by abrasion, corrosion, scrubbing, flattening or peening;
 - Heat damage caused by a torch;
 - Any damage caused by contact with electrical wires;
 - Evidence that the secondary brake has been activated during an overspeed condition and has engaged the suspension rope.
 - Prohibit the use of repaired wire rope as suspension rope.

NEW SECTION**WAC 296-874-30018 Make sure wire suspension rope connections meet these requirements.****You must:**

- Only use eye splice thimbles connected with shackles or cover plates and bolts to join wire suspension ropes together.
 - Make sure the load ends of wire suspension ropes are:
 - Equipped with proper size thimbles;
- AND**
- Secured by eye splicing or an equivalent means.

PROPOSED

- Make sure all swaged attachments or spliced eyes on wire suspension rope have been made by either:
 - The wire rope manufacturer;
- OR
- A qualified person.

NEW SECTION

WAC 296-874-30020 Make sure wire rope clips are used properly.

You must:

- Make sure, if wire rope clips are used on suspended scaffolds, such as on the suspension ropes or support lines, that:
 - A minimum of three clips are installed;
 - The distance between clips is at least six rope diameters;
 - Clips are installed according to the manufacturer's recommendations.
 - Retighten the clips to the manufacturer's recommendations after the initial loading.
 - Inspect the clips and retighten them to the manufacturer's recommendations at the start of each work shift.
 - Make sure U-bolt clips are not used at the point of suspension for any scaffold hoist.
 - Make sure, if U-bolt clips are used, that:
 - The U-bolt is placed over the dead end of the rope;
- AND
- The saddle is placed over the live end of the rope.

NEW SECTION

WAC 296-874-30022 Prevent swaying of two-point and multipoint suspension scaffolds.

You must:

- Tie or use other means to keep two-point and multipoint suspension scaffolds from swaying, if an evaluation by a competent person determines it is necessary.

Note: Window cleaners' anchors cannot be used to secure scaffolds since they are not designed to withstand the load.

NEW SECTION

WAC 296-874-30024 Use emergency escape and rescue devices appropriately.

You must:

- Make sure devices whose sole function is to provide emergency escape and rescue are not used as working platforms.

Note: Systems which are designed to function both as suspended scaffolds and emergency systems may be used as working platforms.

NEW SECTION

WAC 296-874-30026 Protect suspension ropes from heat or corrosive substances.

You must:

- Shield suspension ropes from heat-producing processes.

- Make sure, when acids or other corrosive substances are used on a scaffold, that the suspension ropes are protected by at least one of the following:

- Shielding;
- Treating to protect the rope from the corrosive substances;
- Making the rope of material that the corrosive substance will not damage.

NEW SECTION

WAC 296-874-30028 Take precautions while welding.

You must:

- Do the following to protect employees while welding on suspended scaffolds:
 - Use an insulated thimble to attach each suspension wire rope to its hanging support, such as a cornice hook or outrigger;
 - Insulate excess suspension wire rope and any additional independent lines to prevent grounding;
 - Cover the wire suspension rope with insulating material that extends at least four feet (1.2 m) above the hoist;
 - Make sure any tail line that extends below the hoist is:
 - Insulated to prevent contact with the platform;
 - AND
 - Guided or retained so it does not become grounded.
 - Cover each hoist with an insulated protective cover;
 - Connect the scaffold to the structure using a grounding conductor that:
 - Is at least the size of the welding process work lead;
 - AND
 - Is not in series with the welding process or the work piece.
 - Shut off the welding machine if the scaffold grounding lead becomes disconnected;
 - Make sure an active welding rod or an uninsulated welding lead is not allowed to contact the:
 - Scaffold;
- OR
- Scaffold suspension system.

NEW SECTION

WAC 296-874-30030 Prohibit use of gasoline-powered equipment on suspended scaffolds.

You must:

- Make sure gasoline-powered equipment is not used on suspended scaffolds.

NEW SECTION

WAC 296-874-30032 Meet these requirements when using catenary scaffolds.

You must:

- Make sure catenary scaffolds have:
 - No more than one platform between consecutive vertical pickups;
- AND
- No more than two platforms per scaffold.

- Make sure any platform that's supported by wire ropes has hook-shaped stops placed at each end of the platform that will prevent it from falling if one of the horizontal wire ropes breaks.

- Make sure wire ropes are:

- Continuous and without splices between anchors;

AND

- Not tightened to the point that putting a load on the scaffold will overstress them.

Reference: For specific fall protection requirements for employees on catenary scaffolds, go to WAC 296-874-20056.

NEW SECTION

WAC 296-874-30034 Meet these requirements when using float (ship) scaffolds.

You must:

- Support the platform with at least two bearers.

- Make sure each bearer:

- Projects at least six inches (15.2 cm) beyond the platform on both sides;

AND

- Is securely fastened to the platform.

- Make sure rope connections won't allow the platform to shift or slip.

- Make sure scaffolds that only have two ropes used with each float meet all of the following:

- There are four rope ends that are securely fastened to overhead supports;

- Each supporting rope is hitched around one end of the bearer, passed under the platform to the other end of the bearer, and hitched again;

- There is enough rope at each end for the supporting ties.

Reference: For specific fall protection requirements for employees on float (ship) scaffolds, go to WAC 296-874-20056.

NEW SECTION

WAC 296-874-30036 Meet these requirements when using interior hung scaffolds.

You must:

- Suspend the scaffold only from the roof structure or other structural member, such as ceiling beams.

- Inspect the overhead supporting members and check to make sure they're strong enough before erecting the scaffold.

- Connect suspension ropes and cables to the overhead supporting members by:

- Shackles, clips, or thimbles;

OR

- Other means that meet equivalent criteria, such as strength and durability.

NEW SECTION

WAC 296-874-30038 Meet these requirements when using multilevel suspended scaffolds.

You must:

- Equip scaffolds with additional independent support lines that meet all of the following:

- There are the same number of support lines as there are connection points for the suspension ropes;

- The support lines are equivalent in strength to the suspension ropes;

- The support lines are rigged to support the scaffold if the suspension ropes fail.

- Make sure the independent support lines and the suspension ropes are not attached to the same points of anchorage.

- Attach platform supports directly to the support stirrup and not to another platform.

NEW SECTION

WAC 296-874-30040 Meet these requirements when using multipoint adjustable suspension scaffolds.

IMPORTANT:

This requirement applies when using multipoint adjustable suspension scaffolds, stonemasons' multipoint adjustable suspension scaffolds, and masons' multipoint adjustable suspension scaffolds.

You must:

- Make sure masons' multipoint adjustable suspension scaffold connections are designed by an engineer experienced in designing this type of scaffold.

- Make sure bridges between two or more scaffolds meet all of the following:

- The scaffolds were designed to be bridged;

- The bridges are articulated;

- The hoists are properly sized.

- Make sure passage from one platform to another, without using bridges, is done only when the platforms are:

- At the same height;

AND

- Abutting.

- Suspend scaffolds from:

- Metal outriggers, brackets, wire rope slings, or hooks;

OR

- Other means that meet equivalent criteria, such as strength and durability.

NEW SECTION

WAC 296-874-30042 Meet these requirements when using needle beam scaffolds.

You must:

- Install scaffold support beams on edge.

- Use ropes or hangers for scaffold supports:

- One end of a needle beam scaffold may be supported by a permanent structural member.

- Securely attach ropes to the needle beams.

- Arrange the support connection to prevent the needle beam from rolling or becoming displaced.

- Securely attach platform units to the needle beams with bolts or equivalent means.

Note: Cleats and overhang are not adequate means of attachment.

Reference: For specific fall protection requirements for employees on needle beam scaffolds, go to WAC 296-874-20056.

NEW SECTION

WAC 296-874-30044 Meet these requirements when using single-point adjustable suspension scaffolds.

You must:

• Make sure two scaffolds that have been combined to form a two-point adjustable suspension scaffold meet the requirements of the section, Make sure two-point adjustable suspension scaffolds (swing stages) meet these requirements, WAC 296-874-30046.

• Make sure scaffolds, where the suspension rope between the scaffold and the suspension device is not vertical, meet all of the following:

- The rigging has been designed by a qualified person;
- The scaffold is accessible to rescuers;
- The suspension rope is protected from chafing at any point where it changes direction;
- The scaffold is positioned so that swinging cannot bring the scaffold into contact with another surface.

• Make sure boatswains' chair tackle meets all of the following:

- It consists of correct size ball bearing blocks or bushed blocks;
- The blocks contain safety hooks;
- The rope is properly eye spliced;
- The rope is either:

■ First-grade manila rope that has a diameter of at least five-eighths inch (1.6 cm);

OR

■ Other rope that has equivalent characteristics, such as strength and durability.

• Make sure boatswains' chair seat slings meet all of the following:

- Are reeved through four corner holes in the seat;
- Cross each other on the underside of the seat;
- Are rigged to prevent slipping which could cause the seat to become out-of-level;
- Are made from fiber, synthetic, or other rope which have:

■ A diameter of at least five-eighths inch (1.6 cm);

AND

■ Characteristics equivalent to first grade manila rope, such as strength, slip resistance, and durability.

• Make sure the seat sling of boatswains' chairs used when a heat-producing process, such as gas or arc welding, is being conducted is at least three-eighths inch (1.0 cm) wire rope.

• Securely fasten cleats to the underside of noncross-laminated wood boatswains' chairs to prevent the board from splitting.

Reference: For specific fall protection requirements for employees on single-point adjustable suspension scaffolds, go to WAC 296-874-20056.

NEW SECTION

WAC 296-874-30046 Meet these requirements when using two-point adjustable suspension scaffolds (swing stages).

IMPORTANT:

This section does not apply to two-point adjustable suspension scaffolds used as masons' or stonemasons' scaffolds.

Reference: For requirements for masons' or stonemasons' scaffolds, go to WAC 296-874-30040.

You must:

• Make sure platforms more than thirty-six inches (0.9 m) wide have been designed by a qualified person to prevent unstable conditions.

• Make sure platforms are one of the following:

- Ladder-type;
- Plank-type;
- Beam-type;
- Light-metal type.

• Make sure light-metal type platforms have been tested and listed by a nationally recognized testing laboratory if they:

- Have a rated capacity of seven hundred fifty pounds or less;

OR

- Have a length of forty feet (12.2 m) or less.

• Securely fasten the platform to the hangers (stirrups) using U-bolts or other means that satisfy the section titled, Make sure suspended scaffolds and scaffold components meet these strength requirements, WAC 296-874-30002.

• Make sure fiber or synthetic ropes are used with blocks that:

- Consist of at least one double and one single block;

AND

- Have sheaves that fit the size of the rope used.

• Make sure employees move from one platform to another only when all of the following are met:

- The platforms are at the same height;
- The platforms are abutting;
- Walk-through stirrups are used that have been specifically designed to allow employee passage.

• Make sure two-point scaffolds that are bridged or otherwise connected together when being raised or lowered meet both of the following:

- The bridge connections are articulated;
- The hoists are properly sized.

Reference: For specific fall protection requirements for employees on two-point adjustable suspension scaffolds, go to WAC 296-874-20056.

NEW SECTION

WAC 296-874-400 Supported scaffolds.

Summary:

Your responsibility:

To meet these requirements when using supported scaffolds.

Make sure supported scaffolds and scaffold components meet strength requirements

WAC 296-874-40002.

Prevent supported scaffolds from tipping

WAC 296-874-40004.

Make sure supported scaffolds are properly supported

WAC 296-874-40006.

Provide safe access for persons erecting or dismantling supported scaffolds

PROPOSED

WAC 296-874-40008.

Provide fall protection for persons erecting or dismantling supported scaffolds

WAC 296-874-40010.

Meet these requirements when moving mobile scaffolds

WAC 296-874-40012.

Meet these requirements when using bricklayers' square scaffolds (squares)

WAC 296-874-40014.

Meet these requirements when using crawling boards (chicken ladders)

WAC 296-874-40016.

Meet these requirements when using fabricated frame scaffolds (tubular welded frame scaffolds)

WAC 296-874-40018.

Meet these requirements when using integral prefabricated scaffold access frames

WAC 296-874-40020.

Meet these requirements when using form scaffolds and carpenter's bracket scaffolds

WAC 296-874-40022.

Meet these requirements when using horse scaffolds

WAC 296-874-40024.

Meet these requirements when using ladder jack scaffolds

WAC 296-874-40026.

Meet these requirements when using outrigger scaffolds

WAC 296-874-40028.

Meet these requirements when using pole scaffolds

WAC 296-874-40030.

Meet these requirements when using pump jack scaffolds

WAC 296-874-40032.

Meet these requirements when using repair bracket scaffolds

WAC 296-874-40034.

Meet these requirements when using roof bracket scaffolds

WAC 296-874-40036.

Meet these requirements when using step, platform, and trestle ladder scaffolds

WAC 296-874-40038.

Meet these requirements when using tube and coupler scaffolds

WAC 296-874-40040.

Meet these requirements when using window jack scaffolds

WAC 296-874-40042.

NEW SECTION

WAC 296-874-40002 Make sure supported scaffolds and scaffold components meet strength requirements.

You must:

- Make sure each supported scaffold and scaffold component can support, without failure, the total of its own weight plus at least four times the maximum intended load applied or transmitted to it.

NEW SECTION

WAC 296-874-40004 Prevent supported scaffolds from tipping.

You must:

- Make sure supported scaffolds with a height to least base dimension ratio of greater than four to one are prevented from tipping by one or more of the following:

- Guying;
- Tying;
- Bracing;
- Other equivalent means.

Note: The least base dimension includes outriggers, if used.

You must:

- Install guys, ties, and braces where horizontal members support both the inner and outer legs of the scaffold.

- Install guys, ties, and braces:

- According to the scaffold manufacturer's recommendations;

OR

- At all points where the following horizontal and vertical planes meet:

- First vertical level at a height equal to four times the least base dimension;

- Subsequent vertical levels every:

- ◆ Twenty feet (6.1 m) or less for scaffolds having a width of three feet (0.91 m) or less;

- ◆ Twenty six feet (7.9 m) or less for scaffolds more than three feet (0.91 m) wide;

- Horizontally at:

- ◆ Each end of the scaffold;

AND

- ◆ Intervals of thirty feet (9.1 m) or less.

Note: The thirty-foot horizontal intervals are measured from one end of the scaffold to the other.

You must:

- Make sure the highest level of guys, ties, or braces is no further from the top of the scaffold than a distance equal to four times the least base dimension.

- Make sure scaffolds that have an eccentric load applied or transmitted to them, such as a cantilevered work platform, are prevented from tipping by one or more of the following:

- Guying;
- Tying;
- Bracing;
- Outriggers.

NEW SECTION

WAC 296-874-40006 Make sure supported scaffolds are properly supported.

You must:

- Make sure supported scaffold poles, legs, posts, frames, and uprights are:

- Plumb;

AND

- Braced to prevent swaying or displacement.

- Make sure supported scaffold poles, legs, posts, frames, and uprights bear on base plates.

- Make sure the scaffold has an adequate, firm foundation such as dry compacted soil, mud sills, or concrete slabs.

- Make sure footings are all of the following:
 - Level;
 - Sound;
 - Rigid;
 - Capable of supporting the loaded scaffold without settling or displacement.
- Make sure unstable objects are not used:
 - To support scaffolds or platform units;
- OR**
- As working platforms.
- Make sure mobile scaffolds meet these additional requirements:
 - Wheel and caster stems are pinned or otherwise secured in the scaffold legs or adjustment screws;
 - Wheels and casters are locked, or equivalent means are used, to prevent movement when the scaffold is used as a stationary scaffold;
 - Screw jacks or other equivalent means are used if it's necessary to level the work platform.
- Make sure front-end loaders and similar equipment used to support scaffold platforms have been specifically designed for such use by the manufacturer.

Reference: For requirements about powered industrial trucks, including forklifts that are used to support scaffold platforms, go to Powered industrial trucks, chapter 296-863 WAC.

NEW SECTION

WAC 296-874-40008 Provide safe access for persons erecting or dismantling supported scaffolds.

You must:

- Provide a safe means of access for persons erecting or dismantling scaffolds if it is:
 - Feasible;
- AND**
- Does **not** create a greater hazard.
- Have a competent person determine the feasibility of providing safe access.
 - Make sure the determination is based on site conditions and the type of scaffold being erected or dismantled.
 - Install a hook-on or attachable ladder as soon as scaffold erection has progressed to a point where it can be safely installed and used.
 - Make sure crossbraces on tubular welded frame scaffolds are not used to access or egress from the scaffold.
 - Make sure the end frames of tubular welded frame scaffolds that are used as climbing devices meet all of the following:
 - Create a usable ladder;
 - Provide good hand holds and foot space;
 - Have horizontal members that are all of the following:
 - Parallel;
 - Level;
 - Spaced not more than twenty two inches apart vertically.

NEW SECTION

WAC 296-874-40010 Provide fall protection for persons erecting or dismantling supported scaffolds.

You must:

- Have a competent person determine the feasibility of providing fall protection for persons erecting or dismantling supported scaffolds.
 - Provide fall protection if the installation and use of fall protection is:
 - Feasible;
- AND**
- Does **not** create a greater hazard.

NEW SECTION

WAC 296-874-40012 Meet these requirements when moving mobile scaffolds.

You must:

- Make sure, before a scaffold is moved, that employees on the scaffold are made aware of the move.
- Apply manual force being used to move a scaffold:
 - As close to the base as practicable;
- AND**
- Within five feet (1.5 m) of the supporting surface.
- Make sure power systems used to propel mobile scaffolds have been designed for such use.
 - Make sure forklifts, trucks, similar motor vehicles, or add-on motors are not used to propel scaffolds unless the scaffold has been designed to be used with that type of propulsion system.
 - Stabilize scaffolds to prevent tipping when they're being moved.
 - Make sure a scaffold is not moved with employees riding on it unless all of the following are met:
 - The surface on which the scaffold is being moved is:
 - Within three degrees of level;
 - AND**
 - Free of pits, holes, and obstructions;
 - No employee is on any part of the scaffold which extends out beyond the wheels, casters, or other supports;
 - Outrigger frames, when used, are installed on both sides of the scaffold;
 - The power system, if used:
 - Applies the propelling force directly to the wheels;
 - AND**
 - Produces a speed of one foot per second (.3 mps) or less;
 - The height of the scaffold:
 - Is not more than two times the least base dimension;
 - OR**
 - The scaffold is designed and constructed to meet or exceed nationally recognized stability test requirements, such as those listed in ANSI/SIA A92.5, Boom-Supported Elevating Work Platforms, and ANSI/SIA A92.6, Self-Propelled Elevating Work Platforms.

NEW SECTION

WAC 296-874-40014 Meet these requirements when using bricklayers' square scaffolds (squares).

You must:

- Reinforce wood scaffolds with gussets on both sides of each corner.
- Make sure diagonal braces are installed:

- On all sides of each square;
 - Between squares on the front and back sides of the scaffold;
 - Extending from the bottom of each square to the top of the next square.
 - Make sure scaffolds meet all of the following:
 - Are no more than three tiers high;
 - Are constructed and arranged so that each square rests directly above another square;
 - The upper tiers:
 - Stand on a continuous row of planks laid across the next lower tier;
- AND
- Are nailed down or otherwise secured to prevent displacement.

NEW SECTION

WAC 296-874-40016 Meet these requirements when using crawling boards (chicken ladders).

You must:

- Make sure crawling boards (chicken ladders) extend from the roof peak to the eaves when used for roof construction, repair, or maintenance.
- Secure crawling boards (chicken ladders) to the roof by using either:
 - Ridge hooks;

OR

– Means that meet equivalent criteria, such as strength and durability.

Reference: There are specific fall protection requirements for employees using crawling boards (chicken ladders). Go to WAC 296-874-20058.

NEW SECTION

WAC 296-874-40018 Meet these requirements when using fabricated frame scaffolds (tubular welded frame scaffolds).

You must:

- Make sure scaffolds over one hundred twenty-five feet (38.0 m) high above their base plates are:
 - Designed by a registered professional engineer;

AND

- Constructed and loaded as specified in the design.
- Brace frames and panels using crossbraces, horizontal braces, diagonal braces, or a combination thereof to secure vertical members together laterally.

- Make sure the length of the crossbraces will:
 - Automatically square and align the vertical members;

AND

- Make the scaffold plumb, level, and square.
- Secure all brace connections.
- Join frames and panels together vertically by using one of the following:
 - Coupling;
 - Stacking pins;
 - Equivalent means.
- Use pins or other equivalent means to lock scaffold end frames or panels together vertically where uplift may occur.

- Make sure brackets used to support cantilevered loads are all of the following:
 - Seated with side-brackets parallel to the frames and end-brackets at ninety degrees to the frames;
 - Not bent or twisted from these positions;
 - Used only to support persons.

Exemption: Brackets may be used to support cantilevered loads other than personnel if the scaffold has been:

- Designed for other loads by a qualified engineer;

AND

- Built to withstand the tipping forces caused by those loads.

You must:

- Leave existing platforms undisturbed until new end frames have been set in place and braced, then move the platforms to the next level.

NEW SECTION

WAC 296-874-40020 Meet these requirements when using integral prefabricated scaffold access frames.

You must:

- Make sure integral prefabricated scaffold access frames meet all of the following:
 - Have been specifically designed and constructed to be used as ladder rungs;
 - Have a rung length of at least eight inches (20 cm);
 - Have a maximum spacing between rungs of sixteen and three quarters inches (43 cm);
 - Are uniformly spaced within each frame section;
 - Have rest platforms at least every twenty feet (6.1 m) on all supported scaffolds more than twenty-four feet (7.3 m) high.

Note: Nonuniform rung spacing caused by joining end frames together is allowed, provided the resulting spacing does not exceed sixteen and three quarters inches (43 cm).

You must:

- Make sure, when panels with rungs that are less than eleven and one-half inches long are used as work platforms, that employees use either:
 - A positioning device;

OR

- A personal fall arrest system.

Reference: • For personal fall arrest system requirements in this chapter, go to WAC 296-874-20058.

• For construction activities, go to fall restraint and fall arrest, Part C-1, in safety standards for construction work, chapter 296-155 WAC.

NEW SECTION

WAC 296-874-40022 Meet these requirements when using form scaffolds and carpenter's bracket scaffolds.

You must:

- Secure folding-type metal brackets that have been extended for use, with:
 - Bolts;

OR

- Locking-type pins.
- Make sure wooden-bracket form scaffolds are an integral part of the form panel.

• Attach each bracket, other than those for wooden bracket-form scaffolds, to the supporting formwork or structure by using one or more of the following:

- Nails;
- A metal stud attachment device;
- Welding;
- Hooking over a secured structural supporting member,

with the form wales either:

- Bolted to the form;

OR

■ Secured by snap ties or tie bolts extending through the form and securely anchored.

– For carpenters' bracket scaffolds only, using a bolt extending through to the opposite side of the structure's wall.

NEW SECTION

WAC 296-874-40024 Meet these requirements when using horse scaffolds.

You must:

• Make sure horse scaffolds are not constructed or arranged higher than two tiers or ten feet (3.0 m), whichever is less.

• Do all of the following if horses are arranged in tiers:

– Place each horse directly over the horse in the tier below;

– Nail down or otherwise secure the legs of each horse to prevent displacement;

– Crossbrace each tier.

NEW SECTION

WAC 296-874-40026 Meet these requirements when using ladder jack scaffolds.

You must:

• Make sure platform height is not higher than twenty feet (6.1 m).

• Make sure ladder jacks are designed and constructed so they rest:

– On the side rails and ladder rungs together;

OR

– Only on the rungs.

• Make sure ladder jacks that rest on rungs only have a bearing area that includes a length of at least ten inches (25.4 cm) on each rung.

• Make sure ladders used to support ladder jacks are:

– Type I (two hundred fifty pound rated capacity) or Type IA (300 pound rated capacity);

AND

– Are placed, fastened, or equipped with devices to prevent slipping.

• Make sure job-made ladders are not used to support ladder jack scaffolds.

• Make sure scaffold platforms are not bridged together.

Reference: • There are specific fall protection requirements for employees using ladder jack scaffolds. Go to WAC 296-874-20056.

• Requirements for wood and metal ladders for general industry activities are found in other chapters:

– Portable ladders: Metal and wooden, WAC 296-800-290, are found in the safety and health core rules, chapter 296-800 WAC;

– Portable wood ladders, WAC 296-24-780, and portable metal ladders, WAC 296-24-795, are found in Working surfaces, guarding floors and wall openings, ladders, Part J-1, in the general safety and health standards, chapter 296-24 WAC.

• For construction activities, go to Ladders, WAC 296-155-480, in the safety standards for construction work, chapter 296-155.

NEW SECTION

WAC 296-874-40028 Meet these requirements when using outrigger scaffolds.

You must:

• Make sure outrigger scaffolds and scaffold components are:

– Designed by a registered professional engineer;

AND

– Constructed and loaded as specified in the design.

• Make sure the part of the outrigger beam from the fulcrum point to the inboard end (farthest point of anchorage) is at least one and one-half times longer than the part from fulcrum point to the outboard end (the platform side).

• Place I-beam or channel shaped outrigger beams so that the web section is vertical.

• Make sure the fulcrum point of outrigger beams rests on secure bearings at least six inches (15.2 cm) in each horizontal dimension.

• Make sure outrigger beams are:

– Secured in place to prevent movement;

AND

– Securely braced at the fulcrum point against tipping.

• Securely anchor the inboard ends of outrigger beams by using one or both of the following:

– Braced struts bearing against sills that are in contact with the overhead beams or ceiling;

OR

– Tension members secured to the floor joists below.

• Securely brace the entire supporting structure to prevent any horizontal movement.

• Nail, bolt, or otherwise secure platform units to the outriggers to prevent platform displacement.

NEW SECTION

WAC 296-874-40030 Meet these requirements when using pole scaffolds.

You must:

• Make sure pole scaffolds over sixty feet high are:

– Designed by a registered professional engineer;

AND

– Constructed and loaded as specified in the design.

• Leave existing platforms undisturbed until new bearers have been set in place and braced before moving the platforms to the new level.

• Install bracing on double-pole scaffolds as follows:

– Crossbracing between the inner and outer sets of poles;

– Diagonal bracing in both directions across the entire outside face of the scaffold;

– Diagonal bracing in both directions across the entire inside face of scaffolds that are used to support loads equiva-

lent to a uniformly distributed load of fifty pounds (222 kg) or more per square foot (929 square cm).

- Install diagonal bracing on single pole scaffolds in both directions across the entire outside face of the scaffold.

- Make sure runners meet all of the following:
 - Are installed on edge;
 - Extend over a minimum of two poles;
 - Are supported by bearing blocks securely attached to the poles.

- Make sure bearers are:

- Installed on edge;

AND

- Extend a minimum of three inches (7.6 cm) over the outside edges of runners.

- Make sure runners, bearers, and braces are not spliced between poles.

- Make sure wood poles that are spliced together meet both of the following:

- The ends of the poles at the splice:

- Are square;

AND

- The upper section rests squarely on the lower section.
- Wood splice plates are provided that meet all of the following:

lowing:

- Are installed on at least two adjacent sides;
- Extend at least two feet (0.6 m) on either side of the splice;

- Overlap the abutted ends equally;

- Have the same cross-sectional areas as the pole.

Note: Splice plates of material other than wood may be used if they are of equivalent strength.

NEW SECTION

WAC 296-874-40032 Meet these requirements when using pump jack scaffolds.

You must:

- Make sure pump jack brackets, braces, and accessories are made from metal plates and angles.

- Make sure pump jack brackets have two positive gripping mechanisms to prevent any failure or slippage.

- Secure poles to the structure using rigid triangular bracing or the equivalent located at all of the following:

- Top;

- Bottom;

- Other points on the pole as necessary.

- Do both of the following when the pump jack has to pass bracing that's already installed:

- Install an additional brace approximately four feet (1.2 m) above the brace to be passed;

- Leave it in place until:

- The pump jack has been moved;

AND

- The original brace is reinstalled.

- Make sure work benches are not used as scaffold platforms.

Note: A work bench may be used as a toprail only if it meets the toprail requirements in Make sure guardrail systems meet these requirements, WAC 296-874-20064.

You must:

- Make sure wood poles used with pump jack scaffolds are:

- Straight grained;

AND

- Free of shakes, large loose or dead knots, and other defects which might impair strength.

- Make sure wood poles that are constructed of two continuous lengths are joined together with the seam parallel to the bracket.

- Install a mending plate at all splices to develop the full strength of the member when splicing two by fours together to make a pole.

NEW SECTION

WAC 296-874-40034 Meet these requirements when using repair bracket scaffolds.

You must:

- Make sure brackets are all of the following:

- Secured in place by at least one wire rope that's at least one-half inch (1.27 cm) in diameter;

- Attached to the securing wire rope by a positive locking device, or equivalent, that will prevent the bracket from being unintentionally detached from the rope;

- Provided with a shoe, heel block, foot, or a combination that:

- Is located at the contact point between the supporting structure and the bottom of the bracket;

AND

- Will prevent lateral movement of the bracket.

- Secure the platforms to the brackets in a way that prevents:

- The platforms from separating from the brackets;

AND

- The platforms or brackets from moving on a completed scaffold.

- Make sure wire rope placed around the structure to provide a safe anchorage for personal fall arrest systems used by employees erecting or dismantling scaffolds:

- Is at least five-sixteenths inch (0.8 cm) in diameter;

- Provides an anchorage that meets the requirements of WAC 296-874-20058.

- For construction activities, go to fall restraint and fall arrest, Part C-1, in the safety standards for construction work, chapter 296-155 WAC.

- Make sure each wire rope used for securing brackets in place or as an anchorage for personal fall arrest systems is all of the following:

- Protected from damage due to contact with edges, corners, protrusions, or other parts of the supporting structure or scaffold components;

- Tensioned by a turnbuckle or equivalent means. Turnbuckles must be:

- At least one inch (2.54 cm) in diameter;

AND

- Connected to the other end of its rope by an eye splice thimble that's sized appropriate to the turnbuckle.

- Not used with U-bolt wire rope clips.

- Make sure materials are not dropped to the outside of the supporting structure.

- Erect the scaffold by progressing around the structure in only one direction.

NEW SECTION**WAC 296-874-40036 Meet these requirements when using roof bracket scaffolds.****You must:**

- Make sure scaffold brackets meet all of the following:
 - Are constructed to fit the pitch of the roof;
 - Provide a level support for the platform;
 - Are anchored in place by nails.

Note: If it's not practical to use nails to anchor brackets, secure them in place with first grade manila rope of at least three-quarters inch (1.9 cm) diameter, or equivalent.

NEW SECTION**WAC 296-874-40038 Meet these requirements when using step, platform and trestle ladder scaffolds.****You must:**

- Make sure ladders used to support step, platform, and trestle ladder scaffolds are:
 - Type IA (300 pound rated capacity) or Type I (250 pound rated capacity);

AND

- Placed, fastened, or equipped with devices to prevent slipping.
- Make sure job-made ladders are not used to support step, platform, and trestle ladder scaffolds.

Reference:

- There are specific fall protection requirements for employees using ladder jack scaffolds. Go to WAC 296-874-20056.
- Requirements for wood and metal ladders are found in other chapters:
 - For general industry activities, go to the following:
 - The safety and health core rules, chapter 296-800 WAC, and find portable ladders: Metal and wooden, WAC 296-800-290.
 - Working surfaces, guarding floors and wall openings, ladders, chapter 296-24 WAC, Part J-1, and find Portable wood ladders, WAC 296-24-780, and Portable metal ladders, WAC 296-24-795.
 - For construction activities, go to the safety standards for construction work, and find ladders, WAC 296-155-480.

You must:

- Make sure scaffold platforms are not placed higher than the second highest rung or step of the ladder supporting the platform.
- Make sure scaffold platforms are not bridged together.

NEW SECTION**WAC 296-874-40040 Meet these requirements when using tube and coupler scaffolds.****You must:**

- Make sure tube and coupler scaffolds over one hundred twenty-five feet high are:
 - Designed by a registered professional engineer;
- AND**
- Constructed and loaded as specified in the design.

- Leave existing platforms undisturbed until new bearers have been set in place and braced before moving the platforms to the new level.

- Install crossbracing across the width of the scaffold that meets all of the following:

- Bracing is installed at:

- Each end of the scaffold;

AND

- At least at every third set of posts horizontally and every fourth runner vertically.

- Bracing extends diagonally from the:

- Outer posts or runners upwards to the next inner posts or runners;

AND

- Inner posts or runners upwards to the next outer posts or runners.

- Install building ties:

- At the bearer levels between the crossbracing;

AND

- At locations specified in WAC 296-874-40004.

- Install longitudinal bracing on straight run scaffolds as follows:

- Diagonally in both directions across the inner and outer rows of posts;

- From the base of the end posts upward to the top of the scaffold at approximately a forty-five degree angle;

- As close as possible to the intersection of the bearer and post or runner and post;

- If the scaffold is longer than it is tall, repeat the bracing beginning at every fifth post;

- If the scaffold is taller than its length, install the bracing:

- From the base of the end posts upward to the opposite end posts;

AND

- In alternating directions until reaching the top of the scaffold.

- Attach bracing to the runners as close to the post as possible, if bracing can't be attached to the post.

- Make sure bearers meet all of the following:

- Are installed transversely between posts;

- If the bearer is coupled to the post, have the inboard coupler bear directly on the runner coupler;

- If the bearer is coupled to the runners, have the couplers as close to the posts as possible;

- Extend bearers beyond the posts and runners;

- Provide full contact with the coupler;

- The bottom bearers are located as close to the base as possible.

- Make sure runners meet all of the following:

- Are installed along the length of the scaffold;

- Are located on both the inside and outside posts at the same height;

- Are interlocked on straight runs to form continuous lengths and are coupled to each post;

- The bottom runners are located as close to the base as possible.

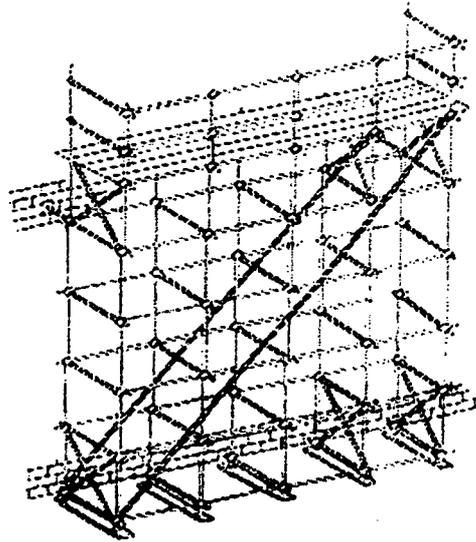
Note: Tube and coupler guardrails and midrails installed on outside posts can be used in lieu of outside runners.

You must:

- Make sure couplers are made of a structural metal, such as drop-forged steel, malleable iron; or structural grade aluminum.

- Prohibit using couplers made of gray cast iron.

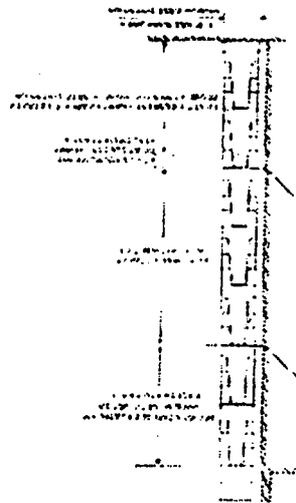
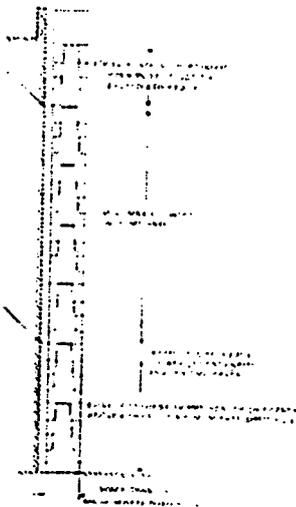
BRACING-TUBE & COUPLER SCAFFOLDS



PROPOSED

MAXIMUM VERTICAL TIE SPACING WIDER THAN 3'-0" BASES

MAXIMUM VERTICAL TIE SPACING 3'-0" AND NARROWER BASES



NEW SECTION

WAC 296-874-40042 Meet these requirements when using window jack scaffolds.

You must:

- Make sure window jack scaffolds meet all of the following:
 - Are securely attached to the window opening;
 - Are used for working only at the window opening the jack is placed through;
 - Are not used:
 - To support planks placed between one window jack and another;
- OR
- As any other element of scaffolding.

NEW SECTION

WAC 296-874-500 Definitions.

Adjustable suspension scaffold a suspended scaffold equipped with one or more hoists that can be operated by employees on the scaffold.

Bearer a horizontal scaffold member (which may be supported by ledgers or runners) upon which the scaffold platform rests and which joins scaffold uprights, posts, poles, and similar members.

Boatswains' chair a single-point adjustable suspended scaffold consisting of a seat or sling designed to support one employee in a sitting position.

Brace a rigid connection that holds one scaffold member in a fixed position with respect to another member, or to a building or structure.

Bricklayers' square scaffold a supported scaffold composed of framed squares which support a platform.

Carpenters' bracket scaffold a supported scaffold consisting of a platform supported by brackets attached to building or structural walls.

Catenary scaffold a suspended scaffold consisting of a platform supported by two essentially horizontal and parallel ropes attached to structural members of a building or other structure. Additional support may be provided by vertical pickups.

Cleat a structural block used at the end of a platform to prevent the platform from slipping off its supports. Cleats are also used to provide footing on sloped surfaces such as access ramps.

Competent person someone who:

- Is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees;

AND

- Has the authority to take prompt corrective measures to eliminate them.

Coupler a device for locking together the tubes of a tube and coupler scaffold.

Crawling board (chicken ladder) a supported scaffold consisting of a plank with cleats spaced and secured to provide footing, for use on sloped surfaces such as roofs.

Design working load the maximum intended load, being the total of all loads including the weight of the people, materials, equipment, and platform.

Double-pole (independent pole) scaffold a supported scaffold consisting of one or more platforms resting on cross beams (bearers) supported by ledgers and a double row of uprights independent of support (except ties, guys, braces) from any structure.

Equivalent alternative design, material or method to protect against a hazard. You have to demonstrate it provides an equal or greater degree of safety for employees than the method, material or design specified in the rule.

Exposed power lines electrical power lines which are accessible to and may be contacted by employees. Such lines do not include extension cords or power tool cords.

Eye or eye splice a loop at the end of a wire rope.

Fabricated frame scaffold (tubular welded frame scaffold) a scaffold consisting of platforms supported on fabricated end frames with integral posts, horizontal bearers, and intermediate members.

Failure load refusal, breaking, or separation of component parts. Load refusal is the point where the ultimate strength is exceeded.

Float (ship) scaffold a suspended scaffold consisting of a braced platform resting on two parallel bearers and hung from overhead supports by ropes of fixed length.

Form scaffold a supported scaffold consisting of a platform supported by brackets attached to formwork.

Guardrail system a vertical barrier, consisting of, but not limited to, top rails, midrails, and posts, erected to prevent employees from falling off a scaffold platform or walkway.

Handrails (ladder stands) a rail connected to a ladder stand running parallel to the slope and/or top step.

Hoist a manual or power-operated mechanical device to raise or lower a suspended scaffold.

Horse scaffold a supported scaffold consisting of a platform supported by construction horses (saw horses). Horse scaffolds constructed of metal are sometimes known as trestle scaffolds.

Independent pole scaffold (see double pole scaffold).

Interior hung scaffold a suspended scaffold consisting of a platform suspended from the ceiling or roof structure by fixed length supports.

Ladder jack scaffold a supported scaffold consisting of a platform resting on brackets attached to ladders.

Ladder stand a mobile, fixed-size, self-supporting ladder consisting of a wide flat tread ladder in the form of stairs.

Landing a platform at the end of a flight of stairs.

Large area scaffold a pole scaffold, tube and coupler scaffold, or fabricated frame scaffold erected over substantially the entire work area. For example: A scaffold erected over the entire floor area of a room.

Lean-to scaffold a supported scaffold which is kept erect by tilting it toward and resting it against a building or structure.

Ledger (see runner).

Lifeline a component consisting of a flexible line that connects to an anchorage at one end to hang vertically (vertical lifeline), or that connects to anchorages at both ends to stretch horizontally (horizontal lifeline). It serves as a means for connecting other components of a personal fall arrest system to the anchorage.

Lower levels areas below the level where the employee is located and to which an employee can fall. Such areas include, but are not limited to, ground levels, floors, roofs, ramps, runways, excavations, pits, tanks, materials, water, and equipment.

Masons' adjustable supported scaffold (see self-contained adjustable scaffold).

Masons' multipoint adjustable suspension scaffold a continuous run suspended scaffold designed and used for masonry operations.

Maximum intended load the total load of all persons, equipment, tools, materials, transmitted loads, and other loads reasonably anticipated to be applied to a scaffold or scaffold component at any one time.

Midrail a rail, approximately midway between the top rail of a guardrail system and the platform, and secured to the uprights erected along the exposed sides and ends of a platform.

Mobile scaffold supported scaffold mounted on casters or wheels.

Multipoint adjustable suspension scaffold a suspended scaffold consisting of a platform(s) which is suspended by more than two ropes from overhead supports and equipped with means to raise and lower the platform to desired work levels. Such scaffolds include chimney hoists.

Needle beam scaffold a suspended scaffold which has a platform supported by two bearers (needle beams) suspended from overhead supports.

Outrigger a structural member of a supported scaffold which increases the base width of a scaffold. This provides support for and increases the stability of the scaffold.

Outrigger beam (suspended and supported) the structural member of a suspended scaffold or outrigger scaffold which provides support for the scaffold by extending the scaffold point of attachment to a point out and away from the structure or building.

Outrigger scaffold a supported scaffold consisting of a platform resting on outrigger beams which projects beyond the wall or face of the building or structure. The inboard ends of the outrigger beams are secured inside the building or structure.

Overhand bricklaying the process of laying bricks and masonry so that the surface of the wall is on the opposite side of the wall from the mason, requiring the mason to lean over the wall to complete the work. It includes mason tending and electrical installation incorporated into the brick wall during the overhand bricklaying process.

Personal fall arrest system a system used to arrest an employee's fall. It consists of an anchorage, connectors, and body harness and may also include a lanyard, deceleration device, lifeline, or combinations of these.

Platform a work surface used in scaffolds, elevated above lower levels. Platforms can be constructed using individual wood planks, fabricated planks, fabricated decks, and fabricated platforms.

Pole scaffold (see single-pole scaffold and double (independent) pole scaffold).

Pump jack scaffold a supported scaffold consisting of a platform supported by vertical poles and movable support brackets.

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 manufacturer's specified maximum load to be lifted by a hoist or to be applied to a scaffold or scaffold component.

Repair bracket scaffold a supported scaffold consisting of a platform supported by brackets. The brackets are secured in place around the circumference or perimeter of a chimney, stack, tank or other supporting structure by one or more wire ropes placed around the supporting structure.

Roof bracket scaffold a supported scaffold used on a sloped roof. It consists of a platform resting on angular-shaped supports so that the scaffold platform is level.

Runner (ledger) the lengthwise horizontal spacing or bracing member which may support the bearers.

Scaffold a temporary elevated platform, including its supporting structure and anchorage points, used for supporting employees or materials.

Self-contained adjustable scaffold a combination supported and suspended scaffold consisting of an adjustable platform mounted on an independent supporting frame, not a part of the object being worked on, which is equipped with a means to raise and lower the platform. Such systems include rolling roof rigs, rolling outrigger systems, and some masons' adjustable supported scaffolds.

Shore scaffold a supported scaffold which is placed against a building or structure and held in place with props.

Single-point adjustable suspension scaffold a suspended scaffold consisting of a platform suspended by one rope from an overhead support and equipped with means to permit the movement of the platform to desired work levels.

Single-pole scaffold a supported scaffold consisting of platforms resting on bearers, the outside ends of which are supported on runners secured to a single row of posts or uprights, and the inner ends of which are supported on or in a structure or building wall.

Stair tower (scaffold stairway/tower) a tower comprised of scaffold components which contains internal stairway units and rest platforms. These towers are used to provide access to scaffold platforms and other elevated points such as floors and roofs.

Stall load the load at which the prime mover of a power-operated hoist stalls or the power to the prime mover is automatically disconnected.

Step, platform, and trestle ladder scaffold a platform resting directly on the rungs of a step, platform, or trestle ladder.

Stilts a pair of poles or similar supports with raised footrests, used to permit walking above the ground or working surface.

Stonesetters' multipoint adjustable suspension scaffold a continuous run suspended scaffold designed and used for stonesetters' operations.

Supported scaffold one or more platforms supported by rigid means such as outrigger beams, brackets, poles, legs, uprights, posts, or frames.

Suspended scaffold one or more platforms suspended from an overhead structure by ropes or other nonrigid means.

Toeboard (scaffold) a barrier erected along the exposed sides and ends of a scaffold platform at platform level to prevent material, tools, and other loose objects from falling from the platform.

Top plate bracket scaffold a scaffold supported by brackets that hook over or are attached to the top of a wall. This type of scaffold is similar to carpenters' bracket scaffolds and form scaffolds.

Tube and coupler scaffold a scaffold consisting of platforms supported by tubing, erected with coupling devices connecting uprights, braces, bearers, and runners.

Tubular welded frame scaffold (see fabricated frame scaffold).

Tubular welded sectional folding scaffold a sectional, folding metal scaffold either of ladder frame or inside stairway design. It is substantially built of prefabricated welded sections, which consist of end frames, platform frame, inside inclined stairway frame and braces, or hinged connected diagonal and horizontal braces. It can be folded into a flat package when the scaffold is not in use.

Two-point suspension scaffold (swing stage) a suspended scaffold consisting of a platform supported by hangers (stirrups), suspended by two ropes from overhead supports, and equipped with a means to permit the raising and lowering of the platform to desired work levels.

Unstable objects items whose strength, configuration, or lack of stability may allow them to become dislocated and shift and therefore may not properly support the loads imposed on them. Unstable objects do not constitute a safe base support for scaffolds, platforms, or employees. Examples include, but are not limited to, barrels, boxes, loose brick, and concrete blocks.

Vertical pickup a rope used to support the horizontal rope in a catenary scaffold.

Walkway (scaffold) part of a scaffold used only for access and not as a working level.

Window jack scaffold a platform resting on a bracket or jack that projects through a window opening.

Work level the elevated platform, used for supporting workers and their materials.

WAC 296-24-86020

Training.

WAC 296-24-861

Manually propelled mobile ladder stands and scaffolds (towers).

WAC 296-24-86105

General requirements.

WAC 296-24-86110

Mobile tubular welded frame scaffolds.

WAC 296-24-86115

Mobile tubular welded sectional folding scaffolds.

WAC 296-24-86120

Mobile tube and coupler scaffolds.

WAC 296-24-86125

Mobile work platforms.

WAC 296-24-86130

Mobile ladder stands.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-155-481

Scope and application.

WAC 296-155-482

Definitions applicable to this part.

WAC 296-155-483

General requirements.

WAC 296-155-484

Additional requirements applicable to specific types of scaffolds.

WAC 296-155-485

Reserved.

WAC 296-155-487

Manually propelled elevating work platforms.

WAC 296-155-488

Self propelled elevating work platforms.

WAC 296-155-489

Boom supported elevating work platforms.

WAC 296-155-490

Aerial lifts.

WAC 296-155-493

Training.

WAC 296-155-494

Non-Mandatory Appendix A to Part J-1, Scaffold Specifications.

WAC 296-155-496

Non-Mandatory Appendix C to Part J-1, List of National Consensus Standards.

WAC 296-155-497

Non-Mandatory Appendix D to Part J-1, List of Training Topics for Scaffold Erectors and Dismantlers.

WAC 296-155-498

Non-Mandatory Appendix E to Part J-1, Drawings and Illustrations.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-24-860

Scaffolds.

WAC 296-24-86005

Definitions applicable to this part.

WAC 296-24-86010

General requirements.

WAC 296-24-86015

Additional requirements applicable to specific types of scaffolds.

WSR 04-14-042
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed June 29, 2004, 4:13 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-10-091.

Title of Rule and Other Identifying Information: WAC 388-442-0010 How being a felon impacts your eligibility for benefits.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA, on August 10, 2004, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 11, 2004.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., August 10, 2004.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by August 6, 2004, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending the rule to be consistent with eligibility requirements for persons convicted of a drug-related felony for the Basic Food program as directed by the legislature under ESB 6411, chapter 5, Laws of 2004; and amending the rule to update program language, and provide consistent eligibility criteria for persons convicted of a drug-related felony to implement federal and state requirements under temporary assistance for needy families (TANF) and state family assistance (SFA).

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.510, ESB 6411 (chapter 54, Laws of 2004).

Rule is necessary because of federal law, Title 7 of the Code of Federal Regulations, Part 273 - 273.11(m).

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Rebecca Henrie, 1009 College S.E., Lacey, WA 98504, (360) 413-3074.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses; it only affects DSHS clients.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to ... rules of the department of social and

health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

June 29, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-05-007, filed 2/4/00, effective 3/6/00)

WAC 388-442-0010 How does being a fleeing felon (~~impacts you~~) or having a conviction for a drug-related felony impact my eligibility for benefits(=)? (1) You are (~~not eligible for TANF/SFA, GA and/or food assistance~~) a fleeing felon if you are(=

(a)) fleeing to avoid prosecution, custody, or confinement (~~after conviction of~~) for a crime(=) or an attempt to commit a crime (~~which~~) that is considered a felony in the place from which you are fleeing(=

(b) Violating a condition of probation or parole as determined by an administrative body or court that has the authority to make this decision)).

(2) If you are a fleeing felon, or violating a condition of probation or parole as determined by an administrative body or court that has the authority to make this decision, you are not eligible for TANF/SFA (~~and/or food assistance~~), GA, or Basic Food benefits.

(3) You are a drug-related felon if you were convicted of a felony committed after August 21, 1996 (~~involving~~) that has an element of possession, use(=) or distribution of (~~an illegal drug, unless you:~~

(a) Were convicted only of possession or use of an illegal drug; and

(b) Were not convicted of a felony for illegal drugs within three years of the latest conviction; and

(c) Were assessed as chemically dependent by a program certified by the division of alcohol and substance abuse (DASA); and

(d) Are taking part in or have completed a rehabilitation plan consisting of chemical dependency treatment and job services;

(3)) a controlled substance as defined in Title 21 of the U.S. Code, Section 802(6). When we determine you are a drug-related felon:

(a) If you were convicted in the state of Washington, we use the Felony Offender Reporting System (FORS) to verify the date of your conviction and to determine if your conviction is for a drug-related felony.

(b) If you were convicted of a felony outside of Washington, we contact the jurisdiction where you were convicted to verify the date of your conviction and determine if the conviction is for a drug-related felony.

(c) We consider a felony conviction for attempt or conspiracy to possess, use or distribute a controlled substance as a conviction for a drug-related felony.

(4) If you are a drug-related felon, you are not eligible for TANF/SFA (cash) benefits unless you meet the conditions under subsection (5) of this section.

(5) If you are a drug-related felon, you may be eligible for TANF/SFA benefits if you meet all of the following conditions:

PROPOSED

(a) You were convicted only of possession or use, but not distribution of a controlled substance;

(b) You were not convicted of a felony involving a controlled substance within the three-year period before your most recent conviction;

(c) You were assessed as chemically dependent by a program certified by the Division of Alcohol and Substance Abuse (DASA); and

(d) You are taking part in or have completed a DASA certified program's rehabilitation plan consisting of chemical dependency treatment and job services.

(6) If you are pregnant, but cannot get TANF/SFA because you were convicted of a drug-related felony, you can get SFA while you are pregnant if you meet all other TANF/SFA eligibility criteria under WAC 388-400-0005 or 388-400-0010.

WSR 04-14-061

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed July 1, 2004, 10:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-03-101.

Title of Rule and Other Identifying Information: WAC 458-20-186 (Rule 186) provides tax-reporting information to persons who sell, use, consume, handle, possess, or distribute cigarettes. The rule explains who is liable for the tax, how and when the cigarette tax imposed by chapter 82.24 RCW is to be paid, and the record-keeping requirements. WAC 458-20-18601 (Rule 18601) explains the application process for wholesale and retail cigarette vendor licenses. It includes references to statutory fees, bonding requirements, and explains the conditions for and process of application for a reinstatement of a license following a revocation under the Administrative Procedure Act.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on August 11, 2004, at 10:00 a.m.

Date of Intended Adoption: August 18, 2004.

Submit Written Comments to: Margaret J. Partlow, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, e-mail margaretpa@dor.wa.gov, fax (360) 664-0693, by August 11, 2004.

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

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposes to revise Rule 186 to update existing information and incorporate legislative amendments to chapter 82.24 RCW. The department proposes to update information now found in Rule 18601, clarify that cigarette wholesalers may sell only to licensed retailers and must post the statutory bond prior to commencing sales, clarify that retailers may purchase only from licensed wholesalers, and explain the responsibilities of persons making "delivery sales" into this state, as codified in chapter 70.155 RCW. The department plans to con-

solidate this information into Rule 186 and repeal Rule 18601.

Reasons Supporting Proposal: To incorporate legislative amendments to chapter 82.24 RCW and to better explain the tax obligations of persons consuming and selling cigarettes in this state.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(1).

Statute Being Implemented: Chapter 82.24 RCW.

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

Name of Proponent: Department of Revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Margaret J. Partlow, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6123; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6125; and Enforcement: Russell Brubaker, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6131.

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

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

July 1, 2004

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 94-10-062, filed 5/3/94, effective 6/3/94)

~~WAC 458-20-186 Tax on cigarettes. ((1) Introduction. This section explains the tax liabilities of persons who sell, use, consume, handle, possess or distribute cigarettes in this state. It addresses only those taxes which apply exclusively to cigarettes. See WAC 458-20-185 for tax liabilities associated with tobacco products other than cigarettes.~~

~~(2) In general. The Washington state cigarette tax is due and payable by the first person who sells, uses, consumes, handles, possesses or distributes the cigarettes in this state.~~

~~(a) For purposes of this rule, a possessor is anyone who personally or through an agent, employee, or designee has possession of cigarettes in this state.~~

~~(b) Payment is made through the purchase of stamps from banks authorized by the department of revenue to sell the stamps.~~

~~(3) Rates. The Washington state cigarette tax is imposed on a per cigarette basis. The rate of tax is a combination of statutory rates found in RCW 82.24.020 and 82.24.027. Charts with current rates are available from the special programs division at the department of revenue.~~

~~(4) Exemptions. To qualify for exemptions from the tax, certain procedures must be followed. Exemptions and their procedures are as follows:~~

~~(a) The cigarette tax does not apply to cigarettes sold to persons licensed as cigarette distributors in other states when, as a condition of the sale, the seller either delivers the eiga-~~

rettes to such a buyer at a point outside this state, or delivers the same to a common carrier with the shipment consigned by the seller to such a buyer at a location outside this state. Any person engaged in making sales to licensed distributors in other states or making export sales (see WAC 458-20-193 and 458-20-193C) or in making sales to the federal government must furnish a surety bond in a sum equal to twice the amount of tax which would be affixed to the cigarettes that are set aside for the conduct of such business without affixing cigarette tax stamps. Such unstamped stock must be kept separate and apart from any stamped stock.

(b) The cigarette tax does not apply to cigarettes in the possession of a person authorized to purchase cigarettes at a military facility when purchased for their own consumption.

(c) The cigarette tax does not apply to cigarettes sold at an outlet on an enrolled Native American tribal member's tribal reservation to an enrolled Native American tribal member for personal consumption. Cigarettes sold to an enrolled tribal member must be stamped, but are untaxed due to the exempt nature of the sale. However, sales made by a Native American cigarette outlet to nontribal members are subject to the tax. These cigarettes are both stamped and taxed.

(5) Liability, collection and stamps.—Every person unlawfully in possession of unstamped cigarettes in this state shall be liable for the cigarette tax provided for herein.

(a) Ordinarily, the tax obligation is imposed and collected on the first possessor of such unstamped cigarettes. However, failure by the first possessor to pay such tax does not excuse any subsequent possessor of unstamped cigarettes.

(b) Stamps indicating the payment of the cigarette tax must be affixed prior to any sale, use, consumption, handling, possession or distribution for all cigarettes other than those mentioned in (4)(a) of this section. The stamp must be applied to the smallest container or package, unless the department determines that it is impractical to do so.

(c) Every licensed stamping wholesaler shall stamp those cigarettes that require stamping within 72 hours after receipt, but in any event, on or before sale or transfer to another party. Stamps shall be of the type authorized by the department which at present is the heat applied "fuson" type. The use of meter stamping machines for use in imprinting packages, in lieu of attaching stamps, is not authorized by the department. The use of water "decalcomania" type stamps by such vendors is not authorized.

(d) Persons other than licensed stamping wholesalers must file with the department of revenue, prior to receipt, a notice of intent to possess unstamped cigarettes in the state of Washington. A copy of this notice, validated by an agent of the department of revenue, must be in the possession of any such person who is in possession of unstamped cigarettes in this state.

(e) Persons who have filed the notice must bring the cigarettes to a department office for payment of the tax within 72 hours of receipt, but in any event, on or before sale or transfer to another party. Failure to file this notice will subject the person in possession of such cigarettes to criminal sanctions as set forth in subsections (9) and (10) of this section.

(f) Any unstamped or untaxed cigarettes in the possession of persons (other than licensed stamping wholesalers)

who have failed to file a notice of intent to possess unstamped cigarettes in the state of Washington or who have failed to affix stamps and/or who have failed to pay the tax as required herein, will be deemed contraband and subject to seizure and forfeiture under the provisions of RCW 82.24.130.

(g) State approved cigarette stamps are available from authorized banks. Payment for stamps may be made either at the time of purchase of the stamps from the banks, or deferred until later, although the latter form of payment is available only to vendors who meet the requirements of the department and who have furnished a surety bond equal to the proposed total monthly credit limit. In addition, purchases on a deferred payment plan may be made only by the cigarette seller or by an agent authorized by the cigarette seller to do so. This authorization may be in the form of a signature card, filed with the bank, from which stamps are usually obtained, and kept current by the vendor. Payments under a deferred plan are due within 30 days following the purchase, and are to be paid at the outlet from which the stamps were obtained, and may be paid by check payable to the department of revenue. Cigarette wholesalers who purchase stamps under either plan are allowed a discount of \$4.00 per thousand stamps affixed, which is offset against the purchase price.

(h) When the rate of tax increases, the first person who sells, uses, consumes, handles, possesses, or distributes previously taxed cigarettes after the rate increase is liable for the additional tax. Failure by the first person to pay the additional tax arising from the first taxable event does not relieve subsequent individuals of tax liability arising from a subsequent taxable event.

(6) Books and records.—An accurate set of records showing all transactions had with reference to the purchase, sale or distribution of cigarettes must be retained.

(a) These records may be combined with those required in connection with the tobacco products tax, by WAC 458-20-185, provided there is a segregation therein of the amount involved. All such records must be preserved for five years from the date of the transaction.

(b) Persons shipping or delivering any cigarettes to a point outside of this state shall transmit to the special programs division, not later than the 15th of the following calendar month, a true duplicate invoice showing full and complete details of the interstate sale or delivery.

(7) Reports and returns.—The department of revenue may require any person dealing with cigarettes, in this state, to complete and return forms, as furnished, setting forth sales, inventory and other data required by the department to maintain control over trade in cigarettes.

Manufacturers and wholesalers selling stamped, unstamped or untaxed cigarettes shall, before the 15th day of each month, transmit to the special programs division a complete record of sales of cigarettes in this state during the preceding month.

(8) Refunds.—Any person may request a refund of the face value of the stamps when the tax is not applicable and the stamps are returned to the department. Documentation supporting the claim must be provided at the time the claim for refund is made.

(a) Refunds for stamped untaxed cigarettes sold to Native American individuals or tribes (see subsection (4)(c))

of this section will include the stamping allowance and will be approved by an agent of the department.

(b) Refunds for stamped cigarettes will not include the stamping allowance if the stamps are:

(i) Damaged, or unfit for sale, and as a result are destroyed or returned to the manufacturer or distributor.

(ii) Improperly or partially affixed through burns, jams, double stamps, stamped on carton flaps, or improper removal from the stamp roll.

(c) The claim for refund must be filed on a form which is provided by the department, Form REV 37-2063. An affidavit or a certificate from the manufacturer claiming refund, or by the agent of the department verifying the voiding of stamps and authorizing the refund, shall accompany the form.

(9) Criminal provisions. RCW 82.24.110(1) prohibits certain specified criminal activities with respect to cigarettes and makes such activities gross misdemeanors. Also, RCW 82.24.100 and 82.24.110(2) prohibit alteration or fabrication of stamps and transportation and/or possession of 300 or more cartons of unstamped cigarettes and makes those activities felonies. Persons commercially handling cigarettes in this state must refer to these statutes.

(10) Search, seizure and forfeiture. The department of revenue may search for, seize and subsequently dispose of unstamped cigarette packages and containers, vehicles of all kinds utilized for the transportation thereof, and vending machines utilized for the sale thereof. Persons handling unstamped cigarettes in this state must refer to RCW 82.24.130 and subsequent sections for provisions relating to search, seizure and forfeiture of such property, for possible redemption thereof, and for treatment of such property in the absence of redemption.

(11) Penalties. RCW 82.24.120 provides a penalty for failure to affix the cigarette stamps or to cause such stamps to be affixed as required, or to pay any tax due under chapter 82.24 RCW. In addition to the tax found to be due, a penalty equal to the greater of ten dollars per package of unstamped cigarettes or two hundred fifty dollars shall be assessed. Interest shall also be added at the rate of one percent for each thirty days or portions thereof from the date the tax became due. The department may cancel all or part of the penalty for good reason.)) **Introduction.** This rule addresses those taxes and licensing activities that apply exclusively to cigarettes as defined by RCW 82.24.010. See WAC 458-20-185 for tax liabilities and registration requirements associated with tobacco products other than cigarettes. The tax on cigarettes is in addition to all other taxes owed. For example, retailers and wholesalers are liable for business and occupation tax on their retailing or wholesaling activities, and must collect and remit sales tax on retail sales of cigarettes. Consumers pay the cigarette tax in addition to sales or use tax on purchases of cigarettes for consumption within this state. (Wholesalers not licensed in the state of Washington who are making sales of cigarettes to Indians in accordance with a cigarette tax contract authorized by RCW 43.06.455 must comply with the specific terms of their individual contracts. See also WAC 458-20-192 regarding sales in Indian country.)

The information provided in this rule is divided into seven parts:

Part I explains the tax liabilities of persons who sell, use, consume, handle, possess, or distribute cigarettes in this state.

Part II explains the licensing requirements and responsibilities for persons making wholesale or retail sales of cigarettes in this state.

Part III explains the stamping requirements and how the cigarette tax rates are calculated.

Part IV describes the exemptions from the tax and the procedures that must be followed to qualify for exemption.

Part V explains the requirements and responsibilities for persons transporting cigarettes in Washington.

Part VI explains the requirements and responsibilities for persons engaged in making delivery sales of cigarettes into this state.

Part VII explains the enforcement and administration of the cigarette tax.

PART I - TAX ON CIGARETTES

(1) In general. The Washington state cigarette tax is due and payable by the first person who sells, uses, consumes, handles, possesses, or distributes the cigarettes in this state.

(a) Possession. For the purpose of this rule, a "possessor" of cigarettes is anyone who personally or through an agent, employee, or designee, has possession of cigarettes in this state.

(b) Payment. Payment of the cigarette tax is made through the purchase of stamps from banks authorized by the department of revenue (department) to sell the stamps. Only licensed wholesalers may purchase or obtain cigarette stamps. Except as specifically provided in Part IV of this rule, it is unlawful for any person other than a licensed wholesaler to possess unstamped cigarettes in this state. However, as explained in subsection (2)(b) of this rule, certain consumers may possess unstamped cigarettes for personal consumption if they pay the tax as provided in this rule.

(c) Imposition of tax. Ordinarily, the tax obligation is imposed on and collected from the first possessor of unstamped cigarettes. However, failure of an exempt entity with an obligation to collect and remit the tax does not relieve a subsequent nonexempt possessor of unstamped cigarettes from liability for the tax.

(d) Promotions. Cigarettes given away for advertising or any other purpose are taxed in the same manner as if they were sold, used, consumed, handled, possessed, or distributed in this state, but are not required to have the stamp affixed. Instead, the manufacturer of the cigarettes must pay the tax on a monthly return filed with the department. See subsection (27) of this rule.

(2) Possession of cigarettes in Washington state.

(a) Every person who is, (i) In possession of unstamped cigarettes in this state and (ii) not specifically exempt by law, is liable for payment of the cigarette tax as provided in chapter 82.24 RCW and this rule.

(b) Consumers who buy unstamped cigarettes or who purchase cigarettes from sources other than licensed retailers in this state must pay the cigarette tax as provided in subsection (27) of this rule when they first bring the cigarettes into this state or first possess them in this state. This requirement includes, but is not limited to, delivery sales as described in Part VI of this rule.

(c) Cigarettes purchased from Indian retailers. Special rules apply to cigarettes purchased from Indian retailers.

(i) Indians purchasing cigarettes in Indian country are exempt from the state cigarette tax however, these sales must comply with WAC 458-20-192. Other consumers may purchase cigarettes for their personal consumption from "qualified Indian retailers" without incurring liability for state cigarette tax. A "qualified Indian retailer" is one who is subject to the terms of a valid cigarette tax contract with the state pursuant to RCW 43.06.455.

(ii) Consumers who purchase cigarettes from Indian retailers who are not subject to a cigarette tax contract with the state must comply with the reporting requirements and remit the cigarette tax as explained in subsection (27) of this rule. These consumers are also liable for the use tax on their purchases. See WAC 458-20-178.

(iii) It is the duty of the consumer in each instance to ascertain his or her responsibilities with respect to such purchases.

(d) Cigarettes purchased on military reservations. Active duty or retired military personnel, and their dependants, may purchase cigarettes for their own consumption on military reservations without paying the state tax (see Part IV). However, such persons are not permitted to give or resell those cigarettes to others.

(e) Counterfeit cigarettes. It is unlawful for any person to manufacture, sell, or possess counterfeit cigarettes. A cigarette is counterfeit if:

(i) It or its packaging bears any logo or marking used by a manufacturer to identify its own cigarettes; and

(ii) The cigarette was not manufactured by the owner of that logo or trademark or by any authorized licensee of the manufacturer. RCW 82.24.570.

(f) Possession of unstamped and untaxed cigarettes, and possession of counterfeit cigarettes, are criminal offenses in this state. See Part VII.

PART II - WHOLESALE AND RETAIL CIGARETTE VENDOR LICENSING REQUIREMENTS AND RESPONSIBILITIES

(3) License required. No person, other than a government instrumentality or an Indian retailer as set forth in Part IV, may engage in the retail or wholesale distribution of cigarettes in this state without a license. No person may engage in the business of sampling within this state unless that person has first obtained a sampler's license. Failure to obtain the required license prior to sampling or selling cigarettes at wholesale or retail is a criminal act.

(4) Definitions. For the purposes of this rule, the following definitions apply:

(a) "Place of business" means any location where business is transacted with, or sales are made to, customers. The term includes, but is not limited to, any vehicle, truck, vessel, or the like at which sales are made.

(b) "Retailer" means every person, other than a wholesaler, who purchases, sells, offers for sale, or distributes cigarettes, regardless of quantity or amount, or the number of sales, and all persons operating under a retailer's registration certificate.

(c) "Retail selling price" means the ordinary, customary, or usual price paid by the consumer for each package of cigarettes, less the tax levied by the state.

(d) "Wholesaler" means every person who purchases, sells, or distributes cigarettes, as defined in chapter 82.24 RCW, to retailers for the purpose of resale only.

(5) Wholesale license. Prior to the sale or distribution of cigarettes at wholesale, each wholesaler must first obtain a wholesale cigarette license from the department of licensing.

(a) Background check. Each wholesaler must undergo a criminal background check before a license will be issued. RCW 82.24.510. The background check must be completed to the satisfaction of the liquor control board and the department. Failure to provide information sufficient to complete the background check may, in the department's discretion, result in denial of the license.

(b) Application. Application for license or renewal of license is made on forms supplied by the department of licensing and must be accompanied by the annual license fee as provided in chapter 82.24 RCW. A wholesale cigarette license is valid for one year from the date it is issued.

(c) Multiple locations. If the wholesaler sells, or intends to sell, cigarettes at more than one place of business, whether temporary or permanent, a separate license with a license fee as provided in chapter 82.24 RCW is required for each additional place of business. Each license must be exhibited in the place of business for which it is issued.

(d) Bond required. Each licensed wholesaler must file a bond with the department in an amount determined by the department, but not less than five thousand dollars. The bond must be executed by the wholesaler as principal, and by a corporation approved by the department of licensing and authorized to engage in business as a surety company in this state, as surety. The bond must run concurrently with the wholesaler's license.

(6) Duties and responsibilities of licensed wholesalers.

(a) Stamps. Only licensed wholesalers may purchase or obtain cigarette stamps. Wholesalers are prohibited by law from selling or providing stamps to any other wholesaler or person.

(b) Numbering. Each roll of stamps, or group of sheets, has a separate serial number. The department keeps records of which wholesaler purchases each roll or group of sheets. Wholesalers are prohibited from possessing stamps other than those specifically issued to them.

(c) Sales restricted. Wholesalers selling cigarettes in this state may sell cigarettes only to Washington retailers who have a current retail cigarette license, to other licensed wholesalers, or to Indian tribal entities authorized to possess cigarettes that are not taxed by the state.

(d) Unstamped cigarettes. Except as explained in Part IV, no person other than a licensed wholesaler may possess unstamped cigarettes in this state. Licensed wholesalers may possess unstamped cigarettes in this state only in the following circumstances:

(i) Licensed wholesalers may possess unstamped cigarettes for up to seventy-two hours after receipt; however, the cigarettes must be stamped on or before sale or transfer to any other party.

PROPOSED

(ii) Licensed wholesalers who have furnished a surety bond in an amount determined by the department may set aside, without stamping, that portion of their stock reasonably necessary for conducting sales to persons outside this state or to instrumentalities of the federal government. All unstamped stock must be kept separate and apart from stamped stock.

(e) Transfers. Wholesalers in possession of unstamped cigarettes under subsection (6)(d) of this rule that are transferred by the wholesaler to another facility within this state must be transferred in compliance with RCW 82.24.250.

(7) Retail license. Prior to the retail sale or distribution of cigarettes, each retailer must first be issued a retail cigarette license from the department of licensing. A license is required for each location at which cigarettes are sold at retail. Each license must be exhibited at the place of business for which it is issued.

(a) Application. Applications for license or renewal of license are made on forms supplied by the department of licensing and must be accompanied by the annual license fee as provided in chapter 82.24 RCW. A retail cigarette license is valid for one year from the date it is issued.

(b) Vending machines. Retailers operating cigarette vending machines are required to pay an additional annual fee as set forth in chapter 82.24 RCW for each vending machine.

(8) Duties and responsibilities of retailers.

(a) No retailer in this state may possess unstamped cigarettes unless he or she is also a licensed wholesaler.

(b) Retailers may obtain cigarettes only from cigarette wholesalers licensed by this state.

(9) Additional requirements for manufacturers, wholesalers, retailers, and samplers. Persons making wholesale or retail sales or engaged in the business of sampling cigarettes in this state must comply with all the provisions of chapters 70.155 and 70.158 RCW. All cigarettes sold, delivered, or attempted to be delivered, in violation of RCW 70.155.105 are subject to seizure and forfeiture. RCW 82.24.130.

(10) Suspension or revocation of wholesale or retail cigarette licenses.

(a) The department has full power and authority to revoke or suspend the license of any wholesale or retail cigarette dealer in the state upon sufficient showing that the license holder has violated the provisions of chapter 82.24 RCW or this rule. See RCW 82.24.550 and WAC 458-20-10001 for information on the procedures pertaining to suspension or revocation of cigarette licenses.

(b) Any person whose license has been revoked must wait one year following the date of revocation before requesting a hearing for reinstatement. Reinstatement hearings are held pursuant to WAC 458-20-10001.

PART III - STAMPING AND RATES

(11) Cigarette stamps.

(a) Stamps indicating payment of the cigarette tax must be affixed prior to any sale, use, consumption, handling, possession, or distribution of all cigarettes other than those specifically exempted as explained in Part IV of this rule. The stamp must be applied to the smallest container or package,

unless the department, in its sole discretion, determines that it is impractical to do so. Stamps must be of the type authorized by the department and affixed in such a manner that they cannot be removed from the package or container without being mutilated or destroyed.

(b) Licensed wholesalers may purchase state-approved cigarette stamps from authorized banks. Payment for stamps must be made at the time of purchase unless the wholesaler has prior approval of the department to defer payment and furnishes a surety bond equal to the proposed monthly credit limit. Payments under a deferred plan are due within thirty days following purchase. Licensed wholesalers are allowed a discount of six dollars per thousand stamps affixed ("stamping allowance"), which amount is offset against the purchase price.

(12) Rates.

(a) The Washington state cigarette tax is imposed on a per cigarette basis. The rate of the tax is a combination of statutory rates found in RCW 82.24.020, 82.24.027, and 82.24.028.

(b) When the rate of tax increases, the first person who sells, uses, consumes, handles, possesses, or distributes previously taxed cigarettes after the rate increase is liable for the additional tax.

(13) Refunds. Any person may request a refund of the face value of the stamps when the tax is not applicable and the stamps are returned to the department. Documentation supporting the claim must be provided at the time the claim for refund is made.

(a) Refunds for stamped untaxed cigarettes sold to Indian tribal members or tribal entities will include the stamping allowance and will be approved by an agent of the department.

(b) Refunds for stamped cigarettes will not include the stamping allowance if the stamps are:

(i) Damaged, or unfit for sale, and as a result are destroyed or returned to the manufacturer or distributor; or

(ii) Improperly or partially affixed through burns, jams, double stamps, stamped on carton flaps, or improperly removed from the stamp roll.

(c) The claim for refund must be filed on a form provided by the department. An affidavit or a certificate from the manufacturer for stamped cigarettes returned to the manufacturer for destruction or by an agent of the department verifying the voiding of stamps and authorizing the refund must accompany the claim for refund.

PART IV - EXEMPTIONS

There are limited exemptions from the cigarette tax provided by law. This part discusses exemptions and the procedures that must be followed to qualify for an exemption.

(14) Government sales. The cigarette tax does not apply to the sale of cigarettes to:

(a) The United States Army, Navy, Air Force, Marine Corps, or Coast Guard exchanges and commissaries and Navy or Coast Guard ships' stores;

(b) The United States Veteran's Administration; or

(c) Any person authorized to purchase from the federal instrumentalities named in (a) or (b) above, if the cigarettes

are purchased from the instrumentality for personal consumption.

(15) Sales in Indian country.

(a) The definitions of "Indian," "Indian country," and "Indian tribe," in WAC 458-20-192 apply to this rule. "Cigarette contract" means an agreement under RCW 43.06.450 through 43.06.460.

(b) The cigarette tax does not apply to cigarettes taxed by an Indian tribe in accordance with a cigarette contract under RCW 43.06.450 through 43.06.460.

(c) The cigarette tax does not apply to cigarettes sold to an Indian in Indian country for personal consumption; however, those sales must comply with the allocation provisions of WAC 458-20-192. Sales made by an Indian cigarette outlet to nontribal members are subject to the tax, except as provided in (b) above.

(d) See WAC 458-20-192 for information on making wholesale sales of cigarettes to Indians and Indian tribes.

(16) Interstate commerce. The cigarette tax does not apply to cigarettes sold to persons licensed as cigarette distributors in other states when, as a condition of the sale, the seller either delivers the cigarettes to the buyer at a point outside this state, or delivers the same to a common carrier with the shipment consigned by the seller to the buyer at a location outside this state. Any person engaged in making sales to licensed distributors in other states or making export sales or in making sales to the federal government must furnish a surety bond in a sum equal to twice the amount of tax that would be affixed to the cigarettes that are set aside for the conduct of such business without affixing cigarette stamps. The unstamped stock must be kept separate and apart from any stamped stock.

PART V - TRANSPORTING CIGARETTES IN WASHINGTON

(17) Transportation of cigarettes restricted. No person other than a licensed wholesaler may transport unstamped cigarettes in this state except as specifically set forth in RCW 82.24.250 and this rule, or as may be allowed under a cigarette tax contract subject to the provisions of RCW 43.06.455. Licensed wholesalers transporting unstamped cigarettes in this state must do so only in their own vehicles unless they have given prior notice to the liquor control board of their intent to transport unstamped cigarettes in a vehicle belonging to another person.

(18) Notice required. Persons other than licensed wholesalers intending to transport unstamped cigarettes in this state must first give notice to the liquor control board of their intent to do so.

(19) Transportation of unstamped cigarettes. All persons transporting unstamped cigarettes must have in their actual possession invoices or delivery tickets for such cigarettes. The invoices or delivery tickets must show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes transported. It is the duty of the person responsible for the delivery or transport of the cigarettes to ensure that all drivers, agents, or employees have the delivery tickets or invoices in their actual possession for all such shipments.

(20) Consignment. If the cigarettes transported pursuant to subsection (17), (18), or (19) of this rule are consigned to or purchased by any person in this state, that purchaser or consignee must be a person who is authorized by chapter 82.24 RCW to possess unstamped cigarettes in this state.

(21) Out-of-state shipments. Licensed wholesalers shipping cigarettes to a point outside Washington or to a federal instrumentality must, at the time of shipping or delivery, report the transaction to the department. The report must show both (a) complete details of the sale or delivery, and (b) whether stamps have been affixed to the cigarettes.

The report may be made either by submitting a duplicate invoice or by completing a form provided by the department, and must be filed with the department as set forth in subsection (27) of this rule.

(22) Compliance required. No person may possess or transport cigarettes in this state unless the cigarettes have been properly stamped or that person has fully complied with the requirements of RCW 82.24.250 and this rule. Failure to comply with the requirements of RCW 82.24.250 is a criminal act. Cigarettes in the possession of persons who have failed to comply are deemed contraband and are subject to seizure and forfeiture under RCW 82.24.130.

PART VI - DELIVERY SALES OF CIGARETTES

(23) Definitions. The definitions in this subsection apply throughout this rule.

(a) "Delivery sale" means any sale of cigarettes to a consumer in the state where either: (i) The purchaser submits an order for a sale by means of a telephonic or other method of voice transmission, mail delivery, any other delivery service, or the internet or other online service; or (ii) The cigarettes are delivered by use of mail delivery or any other delivery service. A sale of cigarettes made in this manner is a delivery sale regardless of whether the seller is located within or outside the state. (For example, "Royal Tax-free Smokes," located in the state of Vermont, offers sales via the internet and a toll-free telephone number, and ships its products to consumers in this state. These transactions are delivery sales.) A sale of cigarettes not for personal consumption to a person who is a wholesaler licensed under chapter 82.24 RCW or a retailer licensed under chapter 82.24 RCW is not a delivery sale.

(b) "Delivery service" means any private carrier engaged in the commercial delivery of letters, packages, or other containers, that requires the recipient of that letter, package, or container to sign to accept delivery.

(24) Tax liability. Cigarettes delivered in this state pursuant to a delivery sale are subject to tax as provided in Part I of this rule. Persons making delivery sales in this state are required to provide prospective consumers with notice that the sales are subject to tax pursuant to chapters 82.24 and 82.12 RCW, with an explanation of how the tax has been or is to be paid with respect to such sales.

(25) Additional requirements. Persons making delivery sales of cigarettes in this state must comply with all the provisions of chapter 70.155 RCW. All cigarettes sold, delivered, or attempted to be delivered, in violation of RCW 70.155.105 are subject to seizure and forfeiture. RCW 82.24.130.

PART VII - ENFORCEMENT AND ADMINISTRATION

(26) Books and records. An accurate set of records showing all transactions related to the purchase, sale, or distribution of cigarettes must be retained. RCW 82.24.090. These records may be combined with those required in connection with the tobacco products tax (see WAC 458-20-185), if there is a segregation therein of the amounts involved. All records must be preserved for five years from the date of the transaction.

(27) Reports and returns. The department may require any person dealing with cigarettes in this state to complete and return forms, as furnished by the department, setting forth sales, inventory, and other data required by the department to maintain control over trade in cigarettes.

(a) Manufacturers and wholesalers selling stamped, unstamped, or untaxed cigarettes must submit a complete record of sales of cigarettes in this state monthly. This report is due no later than the fifteenth day of the calendar month and must include all transactions occurring in the previous month.

(b) Persons making sales of tax-exempt cigarettes to Indian tribes or Indian retailers pursuant to WAC 458-20-192 (9)(a) must transmit a copy of the invoice for each such sale to the special programs division of the department prior to shipment.

(c) Wholesalers selling stamped cigarettes manufactured by nonparticipating manufacturers as defined in WAC 458-20-264 must report all such sales to the special programs division no later than the twenty-fifth day of the calendar month and must include all transactions occurring in the previous month.

(d) Persons making sales of cigarettes into this state to other than a licensed wholesaler or retailer must file a report as required under Title 15, Chapter 10A, section 376 of the U.S. Code (commonly referred to as the "Jenkins Act" report). This report is due no later than the tenth day of each calendar month and must include all transactions occurring in the previous month.

(e) Persons shipping or delivering any cigarettes to a point outside of this state must submit a report showing full and complete details of the interstate sale or delivery as set forth in Part V. This report is due no later than the fifteenth day of the calendar month immediately following the shipment or delivery.

(f) Persons giving away unstamped cigarettes for advertising, promotional, or any other purpose, must report and pay the tax on the number of cigarettes distributed in this state.

(g) Consumers who buy unstamped cigarettes or who purchase cigarettes from sources other than licensed retailers in this state must pay the tax when they first bring the cigarettes into this state or first possess them in this state. The tax is paid with a Tax Declaration for Cigarettes, which may be obtained from the department.

(28) Criminal provisions. Chapter 82.24 RCW prohibits certain activities with respect to cigarettes. Persons handling cigarettes within this state must refer to these statutes. The prohibited activities include, but are not limited to, the following:

(a) Transportation or possession of sixty thousand or fewer cigarettes. Transportation or possession of sixty thousand or fewer unstamped cigarettes is prohibited unless the notice requirements set forth in RCW 82.24.250 have been met; failure to meet those notice requirements is a gross misdemeanor. RCW 82.24.110 (1)(m).

(b) Transportation or possession of more than sixty thousand cigarettes. Transportation or possession of more than sixty thousand unstamped cigarettes is prohibited unless the notice requirements set forth in RCW 82.24.250 have been met; failure to meet those notice requirements is a felony. RCW 82.24.110(2).

(c) Forgery or counterfeiting of stamps. Alteration, fabrication, forgery, and counterfeiting of stamps are felonies. RCW 82.24.100.

(d) Counterfeit cigarettes. The manufacture, sale, or possession of counterfeit cigarettes in this state is a felony. RCW 82.24.570.

(29) Search, seizure, and forfeiture. The department or the liquor control board may search for, seize, and subsequently dispose of unstamped cigarette packages and containers, counterfeit cigarettes, conveyances of all kinds (including aircraft, vehicles, and vessels) used for the transportation of unstamped and/or counterfeit cigarettes, and vending machines used for the sale of unstamped and/or counterfeit cigarettes. See RCW 82.24.130, et seq., for provisions relating to search, seizure, and forfeiture of property, possible redemption of property, and for treatment of such property in the absence of redemption.

(30) Penalties. RCW 82.24.120 provides a penalty for failure to affix the cigarette stamps or to cause the stamps to be affixed as required, or to pay any tax due under chapter 82.24 RCW. In addition to the tax deemed due, a penalty equal to the greater of ten dollars per package of unstamped cigarettes or two hundred fifty dollars will be assessed. Interest is also assessed on the amount of the tax at the rate as computed under RCW 82.32.050(2) from the date the tax became due until the date of payment. The department may, in its sole discretion, cancel all or part of the penalty for good cause.

WSR 04-14-063

PROPOSED RULES

CENTRAL WASHINGTON UNIVERSITY

[Filed July 1, 2004, 11:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-09-071.

Title of Rule and Other Identifying Information: Parking regulations and monetary fee schedule.

Hearing Location(s): Barge Hall, Room 304, Central Washington University, 400 East University Way, Ellensburg, WA 98926-7501, on August 10, 2004, at 2:00 p.m.

Date of Intended Adoption: August 10, 2004.

Submit Written Comments to: Judy B. Miller, Assistant Rules Coordinator, Central Washington University, 400 East University Way, Ellensburg, WA 98926-7501, fax (509) 963-3206, by August 10, 2004.

PROPOSED

Assistance for Persons with Disabilities: Contact Pam Wilson by August 6, 2004, TDD (509) 963-2143.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:

Purpose: Address safety concerns, respond to administrative changes, and incorporate editorial adjustments.

Summary: Update and clarify regulations governing parking on the Ellensburg campus to improve safety and incorporate administrative and editorial changes.

Explanation of Rule, its Proposal, and Anticipated Effects: Proposed changes to the parking regulations and monetary penalty schedule will address safety concerns, respond to administrative changes, and incorporate editorial adjustments. These changes will improve safety and incorporate administrative and editorial changes.

Proposal Changes the Following Existing Rules: Language of existing rules is clarified, monetary penalties are increased for some penalties, and administrative changes are incorporated into the rules.

Reasons Supporting Proposal: Provide a safe and equitable parking environment for faculty, staff, students, and guests of the university with a reasonable penalty schedule.

Statutory Authority for Adoption: RCW 28B.10.528.

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

Name of Proponent: Judy B. Miller, Executive Secretary to the President, Central Washington University, public.

Name of Agency Personnel Responsible for Drafting: Judy B. Miller, President's Office, 400 East University Way, Ellensburg, 98926-7501, (509) 963-2156; Implementation: Barbara Maloney, Parking Coordinator, 400 East University Way, Ellensburg, 98926-7527, (509) 963-2667; and Enforcement: Kevin Higgins, Public Safety and Policy Services, 400 East University Way, 98926-7527, (509) 963-2958.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not impact small businesses.

RCW 34.05.328 does not apply to this rule adoption.

June 28, 2004

Jerilyn S. McIntyre
President

AMENDATORY SECTION (Amending Order CWU AO 72, filed 5/2/94, effective 6/2/94)

WAC 106-116-203 Specific parking prohibitions. (1) Parking in areas and places normally used for moving traffic is a specific violation of these regulations.

(2) Parking in such a position with relation to other parked cars or marked parking spaces as to impede, restrict, or prevent free ingress or egress by other automobiles violates these regulations.

(3) Parking in areas marked for a special permit or clearly designated by signing for special use not available to the general public or regular permit holders is prohibited. Examples: Parking in a space marked "disability permit only," or "health center permit only," or "psychology permit only."

(4) Parking and/or driving on sidewalks is prohibited.

(5) Parking or driving on lawns or flower beds is prohibited.

(6) Compact car zones are placed there for safety reasons. These spaces are to be used by small cars only. This does not include pickups (of any size), sport utility vehicles, station wagons or any other large vehicles.

AMENDATORY SECTION (Amending WSR 02-18-077, filed 8/30/02, effective 9/30/02)

WAC 106-116-305 General permits. (1) Daily parking permits are available from the automatic ticket dispensers and cashier's office. These permits must be displayed in clear view on the dash of the vehicle or as instructed on the permit, readable from outside the vehicle.

(2) Thirty-minute "load/unload permits" are available for loading and unloading. Load/unload permits are available to vendors conducting business on campus, service vehicles, and student vehicles. Load/unload permits are available at the public safety and police services department and the parking kiosk.

(3) No permits are available for inoperative or disabled vehicles. Public safety and police services should be contacted if your vehicle becomes disabled in a university-owned parking lot.

(4) Quarterly, academic year, and calendar year permits are available to faculty, staff, and students(~~, and alumni~~) through the cashiers' office.

AMENDATORY SECTION (Amending WSR 98-23-022, filed 11/9/98, effective 12/10/98)

WAC 106-116-521 Monetary penalties. (1) The monetary penalties to be assessed for violations of these regulations shall be those detailed in WAC 106-116-603.

(2) The chief of public safety and police services or designee will cause:

(a) These regulations or a reasonable condensation thereof to be prominently displayed in the public safety and police services department.

(b) The amount of the monetary penalty to be written on the parking-violation notices served on alleged violators.

(c) Removal or immobilization of vehicles at owner's expense when infractions remain unpaid.

AMENDATORY SECTION (Amending WSR 02-18-077, filed 8/30/02, effective 9/30/02)

WAC 106-116-603 Monetary penalty schedule.

Offense	Penalty
(1) Improper display of permit	\$ 15.00
(2) Parking faculty-staff area	25.00
(3) Parking yellow stripe or curb	25.00
(4) Parking outside designated parking area	25.00
(5) Obstructing traffic	30.00
(6) Parking at improper angle or using more than one stall	15.00

PROPOSED

WSR 04-14-066
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed July 2, 2004, 9:24 a.m.]

PROPOSED

Offense	Penalty
(7) Violation of the bicycle parking rules in WAC 106-116-901	15.00
(8) Reserved parking area	25.00
(9) No parking area	25.00
(10) Overtime parking	15.00
(11) Using counterfeit, falsely made, or altered permit	150.00 to <u>250.00</u>
(12) Illegal use of permit	150.00 to <u>250.00</u>
(13) No current permit	15.00
(14) Parking service drive	25.00
(15) Parking/driving sidewalks, malls	25.00
(16) Parking/driving lawns	25.00
(17) Parking fire lane	30.00
(18) Parking fire hydrant	30.00
(19) Driving, walking, leading, etc., certain animals on campus without permit (WAC 106-116-10401)	15.00
(20) Other violations (of the objectives) of the CWU parking and traffic regulations	15.00 to (25.00) <u>250.00</u>
(21) Parking in a space marked "disabled person permit only"	250.00
(22) Continuous parking	25.00 to <u>200.00</u>
(23) No parking 2:00 a.m. to 6:00 a.m.	25.00

~~((Parking infraction notices shall qualify for a reduction in monetary penalty if paid to the cashier's office in Barge Hall before close of business on the succeeding work day following issuance of the notice. Parking infraction notices received on the last business day of a week must be paid the first business day of the following week to qualify for a reduction in the monetary penalty. The cashier's office is open Monday through Friday, 8:00 a.m. to 5:00 p.m.))~~

Failure to respond within twenty-eight days will result in doubling of the original monetary penalty and a ~~((2.00))~~ \$5.00 administrative fee. However, in accordance with RCW 46.63.110(3), the penalty for failure to respond shall not exceed \$25.00 for any single infraction. Further failure to respond may result in one or more of the following sanctions:

- (a) Withholding of transcripts;
- (b) Deduction from payroll checks;
- (c) Withholding of parking permits; and/or
- (d) Referral to collection agency.

AMENDATORY SECTION (Amending Order 19, filed 8/22/74)

WAC 106-116-801 Motorcycle regulations. Motorcycle operators will be expected to obey the same traffic, parking, and registration regulations as automobile operators on campus:

Motorcycle operators should use designated motorcycle parking areas when provided.

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

Title of Rule and Other Identifying Information: WAC 246-323-990 Residential care facilities for psychiatrically impaired children and youth fees, during 2004 legislative session, the legislature passed ESHB 2459, granting the department authority to exceed I-601 limitation.

Hearing Location(s): Department of Health, Point Plaza East, Hearings Room (139), 310 Israel Road S.E., Tumwater, WA 98501, on August 17, 2004, at 11:00 a.m.

Date of Intended Adoption: August 31, 2004.

Submit Written Comments to: Yvette Fox, P.O. Box 47852, Olympia, WA 98504-7852, e-mail yvette.fox@doh.wa.gov, website www3.doh.gov/policyreview, fax (360) 236-2901, by August 17, 2004.

Assistance for Persons with Disabilities: Contact Contact Yvette Fox by August 10, 2004, TTY (360) 833-6388 or (360) 236-2928.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amends WAC 246-323-990 by increasing fees 64.71%. The increase is necessary to sufficiently cover program operating costs. The increase is anticipated to fully maintain program activities as required by statute.

Reasons Supporting Proposal: The increase will enable the program to operate and conduct inspections in a timely manner, ensuring public health and safety in these facilities. Sufficient revenue is necessary to fulfill the department's public health obligations.

Statutory Authority for Adoption: RCW 43.70.250, 43.70.110, 71.12.470.

Statute Being Implemented: RCW 43.70.250.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Lynda Furkay, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-2927; and Enforcement: Gary Bennett, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-2900.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal is exempt under RCW 19.85.025(3) and, therefore, does not require a small business economic impact statement. However, the department prepared a fee analysis which provides documentation of the need for the fee increase. To obtain a copy of fee analysis, contact Yvette Fox at address above.

A cost-benefit analysis is not required under RCW 34.05.328. A preliminary cost-benefit analysis is not necessary for rules that set or adjust fees or rates pursuant to legislative standards according to RCW 34.05.328 (5)(b)(vi).

June 30, 2004
M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 03-14-147, filed 7/2/03, effective 8/1/03)

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-eight))~~ one hundred thirty-six dollars and ten 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 04-14-070

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed July 2, 2004, 3:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-17-030.

Title of Rule and Other Identifying Information: Chapter 308-29 WAC, Collection agency and repossession services; and amending WAC 308-29-045 Collection agency fees.

Hearing Location(s): Department of Licensing, Business and Professions Division, 405 Black Lake Boulevard S.W., Building #2, Conference Room 102, Olympia, WA 98502, on August 13, 2004, at 10:00 a.m.

Date of Intended Adoption: August 14, 2004.

Submit Written Comments to: Harumi Tucker Tolbert, Collection Agency Board, P.O. Box 9034, Olympia, WA 98507-9034, e-mail collect@dol.wa.gov, fax (360) 570-7875, by August 11, 2004.

Assistance for Persons with Disabilities: Contact Harumi Tucker Tolbert by August 11, 2004, TTY (360) 664-8885 or (360) 664-1389.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department has reviewed the rule noted and recommends amending with new reduced fee levels, which will allow for a sufficient level of revenue to defray the costs of administering the program without overcollecting revenue.

Reasons Supporting Proposal: Amending the rule with a fee decrease will still ensure that there is a sufficient level of revenue to defray program administration costs as required under RCW 43.24.086 without overcollecting revenue.

Statutory Authority for Adoption: RCW 19.16.140, 43.24.086.

Statute Being Implemented: RCW 19.16.140.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Amends one rule reducing fees for collection agency main and branch offices. New reduced fees will still allow the department sufficient revenue in order to maintain

the costs associated with the administration of the program without overcollecting revenue.

Name of Proponent: Department of Licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Harumi Tucker Tolbert, 405 Black Lake Boulevard S.W., Building 2, Olympia, WA 98502, (360) 664-1389.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 43.24.086 requires that regulatory programs raise sufficient revenue to be self-supporting. The current level of revenue collection warrants a reduction in fees and still maintains the level of revenue required to administratively operate the program. There is no adverse impact to the businesses.

A cost-benefit analysis is not required under RCW 34.05.328. No increase in costs to the businesses - only a reduction in fees.

July 1, 2004

Mykel D. Gable
Assistant Director

AMENDATORY SECTION (Amending WSR 01-11-132, filed 5/22/01, effective 6/22/01)

WAC 308-29-045 Collection agency fees. The following fees shall be charged by the business and professions division of the department of licensing:

Title of Fee	Fee
Collection agency—Main office:	
Original application	\$650.00
((Investigation (nonrefundable))	250.00))
Renewal	((600.00))
	<u>410.00</u>
((Late renewal penalty	400.00))
Reregistration fee after 30 days	((1,650.00))
	<u>1,060.00</u>
((Duplicate license	15.00))
Branch office (with WA main office):	
Original application	350.00
Renewal	((350.00))
	<u>238.00</u>
((Late renewal penalty	200.00))
Reregistration fee after 30 days	((900.00))
	<u>588.00</u>
((Duplicate license	15.00))

WSR 04-14-073

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed July 2, 2004, 4:18 p.m.]

Original Notice.

PROPOSED

Preproposal statement of inquiry was filed as WSR 03-21-063.

Title of Rule and Other Identifying Information: Chapter 308-14 WAC, regulating court reporters; amending WAC 308-14-085 Examination, 308-14-090 Application, 308-14-130 Standards of professional practice and 308-14-135 Transcript preparation format; and new sections WAC 308-14-010 Definitions, 308-14-115 Wall certificates, and 308-14-190 Exemptions—Court appointed.

Hearing Location(s): Department of Licensing, Business and Professions Division, 405 Black Lake Boulevard S.W., Building 2, Conference Room 209, Olympia, WA 98504, on August 10, 2004, at 9:30 a.m.

Date of Intended Adoption: August 11, 2004.

Submit Written Comments to: Susan Colard, Court Reporter Program, P.O. Box 9026, Olympia, WA 98507-9026, e-mail scolard@dol.wa.gov, fax (360) 570-7002, by August 9, 2004.

Assistance for Persons with Disabilities: Contact Susan Colard by August 9, 2004, TTY (360) 664-8885 or (360) 664-6633.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of rule revision is to provide further written clarification and to increase the requirements for examination transcription to meet the national standard of two hundred twenty-five words per minute.

Reasons Supporting Proposal: All amended and added rules clarify and simplify the language and requirements. Increasing the requirements for examination transcription will meet national standards for reciprocity with other states and increase Washington's own standards.

Statutory Authority for Adoption: RCW 18.145.050, 43.24.023.

Statute Being Implemented: RCW 18.145.050.

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

Name of Proponent: Department of Licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Colard, 405 Black Lake Boulevard S.W., Olympia, WA 98504, (360) 664-6633.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this rule revision. Washington State Department of Licensing is not a named agency, therefore, exempt from this provision.

July 2, 2004

Trudie Touchette
Administrator

NEW SECTION

WAC 308-14-010 Definitions. "Character" is a letter, numeral, punctuation mark, control character, blank, or other such symbol.

"Standard line" is a line that can be determined by looking at a full line of text and counting from the first letter,

including punctuation and spaces, to the last letter of that line. The standard line does not include a "Q" or "A," or the numbers on the left side of the page.

AMENDATORY SECTION (Amending WSR 91-20-002 and 91-20-044, filed 9/19/91 and 9/24/91, effective 10/20/91 and 10/25/91)

WAC 308-14-085 Examination. (1) The examination for "court reporter," "shorthand reporter," "certified court reporter," or "certified shorthand reporter" shall be an examination developed, administered, and graded by the department with the advice of the board or any examination prepared by a recognized person (institution, organization, corporation) approved by the department that meets the requirements stated in this regulation.

(2) Recognition of an examination as the Washington certification examination is conditioned upon the examination meeting the following requirements:

(a) Be a timed tape with content, speed, and quality approved by the department with the advice of the board, prior to use;

(b) The examination requires the applicant be able to report and transcribe at least two hundred twenty-five words per minute of two-voice testimony for five consecutive minutes;

(c) At least ninety-five percent accuracy is needed to pass the examination;

(d) Be offered at least twice a year;

(e) The pass/fail scores of the state certification applicants are provided to the department within four weeks of the date of the examination to include a complete list of all the applicants;

(f) Examinations statistics are supplied following each examination: The number scheduled, passed, failed, and failed to appear;

(g) The procedures for security and confidentiality of the examination and applicants must meet the requirements of the department of licensing; and

(h) The department will be supplied with the examination tape and all the individual examination papers with grading marks and comments on them for review. The department reserves the final authority for examination results. The department may retain the examination papers for thirty days after final determination regarding scores to allow appeals and review of papers. Sixty days after the examination results are released all examination papers will be destroyed, except those under appeal, which will be held until final disposition.

~~(3) ((The Washington state statutory examinations which were held April 1990, October 1990, and April 1991, are recognized as the qualifying examinations for state certification as a shorthand or court reporter.~~

~~(4))~~ State applicants who have previously passed the Washington state department of licensing recognized examination within three years of application may be issued certification without additional examination if certified documentation of the passed examination is provided.

~~((5))~~ (4) Applicants who have failed the examination may apply by submission of a reexamination application and the required fee.

AMENDATORY SECTION (Amending WSR 91-20-002 and 91-20-044, filed 9/19/91 and 9/24/91, effective 10/20/91 and 10/25/91)

WAC 308-14-090 Application. ~~((1))~~ Applications for ~~((temporary and permanent))~~ certification must be complete in every detail and submitted with the required fee. The applications for examination must be received at least eight weeks prior to the examination. Complete applications will contain the following information:

- ~~((a))~~ (1) Name and address
 - ~~((b))~~ ~~Business name and address~~
 - ~~((c))~~ (2) Birth ~~((place and))~~ date
 - ~~((d))~~ (3) Social Security number
 - ~~((e))~~ ~~Educational background~~
 - ~~((f))~~ ~~Previous work experience in court reporting~~
 - ~~((g))~~ ~~List of references (references must have personal knowledge that the applicant has at least two years of court reporting experience)~~
 - ~~((h))~~ (4) Professional licensure/certification, including any action taken against the license or certificate
 - ~~((i))~~ (5) Personal affidavit
 - ~~((j))~~ ~~Copies of school transcripts and/or graduation certificate (if required).~~
- ~~(2) An applicant holding a temporary certificate must submit a complete updated application and fee for permanent certification. The application must be received at least eight weeks prior to the examination date.)~~

NEW SECTION

WAC 308-14-115 Wall certificates. Upon meeting standards of competency as defined in RCW 18.145.080, an applicant will be issued a wall certificate with the applicant's name, issue date and certificate number. Licensees will be issued one wall certificate, which will provide proof of certification.

AMENDATORY SECTION (Amending WSR 91-20-002 and 91-20-044, filed 9/19/91 and 9/24/91, effective 10/20/91 and 10/25/91)

WAC 308-14-130 Standards of professional practice. All certified ~~((shorthand))~~ court reporters ~~((CSR))~~ (CCR) shall comply with the following professional standards except where differing standards are established by court or governmental agency. Failure to comply with the following standards is deemed unprofessional conduct. Certified ~~((shorthand))~~ court reporters shall:

- (1) Offer arrangements on a case concerning court reporting services or fees to all parties on equal terms.
- (2) Include on all transcripts, business cards, and advertisements their ~~((CSR))~~ CCR reference number.
- ~~((2))~~ (3) Prepare transcripts in accordance with the transcript preparation guidelines established by WAC 308-14-135 or court.
- ~~((3))~~ (4) Preserve and file ~~((their))~~ shorthand notes in a manner retrievable. Transcribed notes shall be retained for no less than three years~~((:-))~~ and untranscribed notes shall be retained for ~~((no))~~ not less than ten years, or as required by statute, whichever is longer.

~~((4))~~ ~~Meet promised delivery dates.)~~ (5) Provide transcripts on agreed delivery date, and give notification of any delays.

- ~~((5))~~ (6) Prepare accurate transcripts.
- ~~((6))~~ (7) Disclose conflicts, potential conflicts, or appearance of conflicts to all involved parties.
- ~~((7))~~ (8) Be truthful and accurate in advertising qualifications and/or services provided.
- ~~((8))~~ (9) Preserve the confidentiality of all information ~~((in their possession))~~ obtained during a proceeding and take all steps necessary to ~~((insure))~~ ensure its security ~~((and privacy)).~~
- ~~((9))~~ (10) Notify all involved parties when transcripts are ordered.
- ~~((10))~~ ~~Notify all involved parties,) (11) All parties shall be notified~~ when a transcript is ordered by a person not involved in the case~~((, before a copy of the transcript is furnished)).~~ If any party objects, the transcript ~~((is not))~~ cannot be provided without a court order.
- ~~((11))~~ (12) Supply certified copies of transcripts to any involved party, upon appropriate request.

AMENDATORY SECTION (Amending WSR 91-20-002 and 91-20-044, filed 9/19/91 and 9/24/91, effective 10/20/91 and 10/25/91)

WAC 308-14-135 Transcript preparation format. The following transcript format ~~((will))~~ shall be followed by all certified ~~((shorthand))~~ court reporters ~~((CSR's))~~ (CCR's), except where format ~~((are))~~ is recommended or established by court or agency.

- (1) ~~((No fewer than))~~ Twenty-five typed lines ~~((on a standard))~~ per 8 1/2 x 11 inch standard page of paper.
- (2) No fewer than nine and no more than ten characters ~~((to the typed))~~ per inch of text.
- (3) No fewer than fifty-four and no more than sixty characters per standard line of text.

NEW SECTION

WAC 308-14-190 Exemptions—Court appointed. A court reporter that is appointed to superior court under RCW 2.32.180 is exempt from the licensure requirements of chapter 18.145 RCW. The department has jurisdiction over court reporting activities when the court reporter is appointed to superior court under RCW 2.32.180 and is also certified under chapter 18.145 RCW.

WSR 04-14-074

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed July 2, 2004, 4:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-17-027.

Title of Rule and Other Identifying Information: Chapter 308-14 WAC, regulating court reporters, amending WAC 308-14-200 Court reporter fees.

Hearing Location(s): Department of Licensing, Business and Professions Division, 405 Black Lake Boulevard S.W., Building 2, Conference Room 209, Olympia, WA 98502, on August 10, 2004, at 9:00 a.m.

Date of Intended Adoption: August 11, 2004.

Submit Written Comments to: Susan Colard, Court Reporter Program, P.O. Box 9026, Olympia, WA 98507-9026, e-mail scolard@dol.wa.gov, fax (360) 570-7002, by August 9, 2004.

Assistance for Persons with Disabilities: Contact Susan Colard by August 9, 2004, TTY (360) 664-8885 or (360) 664-6633.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department has reviewed the rule noted and recommends a reduction in fees to reduce the level of revenue collected.

Reasons Supporting Proposal: The current level of revenue collection warrants a reduction in fees and still maintains the level of revenue required to administratively operate the program as required under RCW 43.24.086.

Statutory Authority for Adoption: RCW 18.145.050, 43.24.023, and 43.24.086.

Statute Being Implemented: RCW 18.145.050.

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

Name of Proponent: Department of Licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Colard, 405 Black Lake Boulevard S.W., Olympia, WA 98504, (360) 664-6633.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to rules that set or adjust fees or rates pursuant to legislative standards.

July 2, 2004

Mykel D. Gable
Assistant Director

AMENDATORY SECTION (Amending WSR 98-16-060, filed 8/3/98, effective 9/3/98)

WAC 308-14-200 Court reporter fees. The following fees shall be charged by the business and professions division, department of licensing:

Title of Fee	Fee
Certification	
Application	\$(130.00) 95.00
Renewal	((104.00)) 40.00
Late renewal penalty	((104.00)) 80.00
Verification	25.00
Duplicate	15.00

WSR 04-14-075
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed July 2, 2004, 4:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-17-028.

Title of Rule and Other Identifying Information: Chapter 308-11 WAC, regulating auctioneers, amending WAC 308-11-030 Auctioneer fees.

Hearing Location(s): Department of Licensing, Business and Professions Division, 405 Black Lake Boulevard S.W., Building 2, Conference Room 209, Olympia, WA 98502, on August 10, 2004, at 8:30 a.m.

Date of Intended Adoption: August 11, 2004.

Submit Written Comments to: Susan Colard, Court Reporter Program, P.O. Box 9026, Olympia, WA 98507-9026, e-mail scolard@dol.wa.gov, fax (360) 570-7002, by August 9, 2004.

Assistance for Persons with Disabilities: Contact Susan Colard by August 9, 2004, TTY (360) 664-8885 or (360) 664-6636.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department has reviewed the rule noted and recommends a reduction in fees to reduce the level of revenue collected.

Reasons Supporting Proposal: The current level of revenue collection warrants a reduction in fees and still maintains the level of revenue required to administratively operate the program as required under RCW 43.24.086.

Statutory Authority for Adoption: RCW 18.11.060, 43.24.023, and 43.24.086.

Statute Being Implemented: RCW 18.11.060.

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

Name of Proponent: Department of Licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Colard, 405 Black Lake Boulevard S.W., Olympia, WA 98504, (360) 664-6636.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to rules that set or adjust fees or rates pursuant to legislative standards.

July 2, 2004

Mykel D. Gable
Assistant Director

AMENDATORY SECTION (Amending WSR 98-16-061, filed 8/3/98, effective 9/3/98)

WAC 308-11-030 Auctioneer fees. The following fees shall be charged by the business and professions division of the department of licensing:

Title of Fee	Fee
Auctioneer:	
Initial application	\$ ((114.00)) <u>100.00</u>
Renewal	((114.00)) <u>85.00</u>
Late renewal penalty	((104.00)) <u>75.00</u>
Duplicate license	15.00
Certification	25.00
Auction company:	
Initial application	((260.00)) <u>200.00</u>
Renewal	((260.00)) <u>175.00</u>
Late renewal penalty	((208.00)) <u>100.00</u>
Duplicate license	15.00

WSR 04-14-078
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed July 6, 2004, 10:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-11-054.

Title of Rule and Other Identifying Information: WAC 139-05-242 Readmission to basic law enforcement academy.

Hearing Location(s): Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148-2055, on September 8, 2004, at 10:00 a.m.

Date of Intended Adoption: September 8, 2004.

Submit Written Comments to: Sharon M. Tolton, Criminally Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148-2055, fax (206) 439-3860, by September 6, 2004.

Assistance for Persons with Disabilities: Contact Sonja Hirsch by September 6, 2004, TDD (206) 835-7300.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Peace officer certification and subsequent changes to RCW 43.101.010 became effective January 1, 2002. Some of the language in RCW 43.101.115 Denial of revocation of peace officer certification—Readmission to academy—Reinstatement, authorizes the commission to readmit and certify officers who have not completed the Basic Law Enforcement Academy. There are portions of WAC 139-05-242 that conflict with the conditions and length of time set forth in the RCW under which a person can be readmitted to an academy. (See details below.)

Summary: Stakeholders were contacted by letter to advise of the intended rule amendments. Proposals also listed on the agency website.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule sets forth the conditions under which a person may be readmitted to the Basic Law Enforcement Academy when they have been terminated from a Basic Law Enforcement Academy for academic failure, voluntary withdrawal, or disciplinary reasons to include cheating, integrity violations, failure to cooperate, or the commission of a crime.

The changes to this WAC will set the conditions for readmittance to a Basic Law Enforcement Academy to the extent that these conditions will not be in conflict with the requirements for readmission that are set forth in RCW 43.101.115. The WAC currently identifies levels of behavior and actions by an officer in the basic academy that could result in the officer being removed from the academy, and then allowed to return within twenty-four months. This same behavior under RCW 43.101.115 may be investigated as disqualifying misconduct, which if proven, would require the commission to initiate the hearing process that may result in the denial or revocation of the peace officer's certification and prohibit the officer's readmission to a basic academy for five years.

Proposal Changes the Following Existing Rules: Subsection (4) removes the act of "making a materially false statement," which under RCW 43.101.115(4) may be treated as a "disqualifying misconduct" as described in RCW 43.101.010 (7)(c). An officer found to have been terminated for disqualifying misconduct may not make application for reinstatement for five years, versus the twenty-four months allowed by the WAC. The other language added referencing violations not constituting disqualifying misconduct is necessary to clarify that if the dismissal is disqualifying misconduct, that there are other rules that set forth conditions that a person must meet prior to being readmitted to an academy.

Subsection (5) has been struck because it allowed the director to make an acceptance [exception] after a hearing. This option is in conflict with the RCW 43.101.115 that grants this authority to the hearings panel and allows them to set the conditions under which the person may return.

Subsection (6) was changed to match the changes to the exception rule that was struck in subsection (5) of the WAC.

Subsection (7) was struck because of the conflict with RCW 43.101.400 Confidentiality of records. The release of any information collected for the purpose of denying or revoking a peace officer's certification is addressed in RCW 43.101.400. The WAC language was in conflict with the confidentiality requirements of this section of the RCW.

Statutory Authority for Adoption: RCW 43.101.080.

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

Name of Proponent: Criminal Justice Training Commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Doug Blair, Burien, (206) 835-7309.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2); therefore, a small business economic impact statement is not required.

RCW 19.85.025(2), this chapter does not apply to a rule proposed for expedited adoption under **RCW 34.05.230 (1)

through (8), unless a written objection is timely filed with the agency and the objection is not withdrawn.

RCW 34.05.328 does not apply to this rule adoption.

July 1, 2004

Sonja Hirsch

for Sharon M. Tolton

Deputy Director

AMENDATORY SECTION (Amending WSR 00-17-017, filed 8/4/00, effective 9/4/00)

WAC 139-05-242 Readmission to basic law enforcement academy. No person may be readmitted to the basic law enforcement training academy except as provided in this section.

(1) Any request for readmission to any academy shall be made and submitted by the individual's employing or sponsoring agency.

(2) Any individual terminated from any academy for academic failure or who has voluntarily withdrawn from any academy for any reason, may be readmitted to a subsequent academy session only if:

(a) The head of the individual's current employing agency submits to the commission a written request for readmission of the individual to the academy program, and

(b) The executive director of the commission, or his or her designee, is satisfied that any conditions to the individual's readmission specified by the director or his or her designee have been met.

(3) Any individual dismissed from any academy for disciplinary reasons other than those specified by ~~((section))~~ subsection (4) ((below)) of this section, may be readmitted to a subsequent academy program only if:

(a) The head of the individual's current employing agency submits to the commission a written request for readmission, and

(b) The executive director of the commission, or his or her designee, is satisfied that any conditions to the individual's readmission specified by the director or his or her designee have been met, and determines there no longer exists "good cause" to exclude the individual from the academy program.

(4) Any person dismissed from any academy for an integrity violation, including but not limited to cheating, ~~((the making of materially false statements,))~~ or the commission of a crime, or other violations not constituting disqualifying misconduct as defined in RCW 43.101.010(7), shall not be eligible for readmission to any subsequent academy within twenty-four months from the date of dismissal. Such ineligibility shall not be affected by any new employment or reemployment during the period of ineligibility specified in the preceding sentence of this subsection.

(5) ~~((An exception to the ineligibility period specified in subsection (4) may be granted at the sole discretion of the director, based upon mitigating circumstances. However, no person may be considered for such early readmission after an integrity violation dismissal unless a written request is made on his or her behalf by the head of the agency employing the individual at the time of the request. Such request may be granted by the director upon hearing the matter in a proceed-~~

~~ing conducted in accordance with the applicable procedures of the commission. The director's decision under this subsection shall be subject to further review only for abuse of discretion.~~

~~(6))~~ After the ineligibility period specified in subsection (4) of this section has passed, ~~((or after an exception thereto has been granted by the commission under subsection (5),))~~ the person previously dismissed for an integrity violation may be readmitted to a subsequent academy session only if:

(a) The head of the individual's current employing agency submits to the commission a written request for readmission, and

(b) The executive director of the commission, or his or her designee, is satisfied that any conditions to the individual's readmission specified by the director or his or her designee have been met, and determines there no longer exists "good cause" to exclude the individual from the academy program.

~~((7) Any and all information deemed to be relevant to the eligibility for readmission under this section of any law enforcement recruit or prospective recruit may be disseminated without restriction between the commission staff and any employer or prospective employer.~~

~~(8))~~ (6) For purposes of this section, reserves and volunteers will be deemed to be employees of the agencies which sponsor them for participation in a training academy.

**WSR 04-14-080
PROPOSED RULES
PARKS AND RECREATION
COMMISSION**

[Filed July 6, 2004, 12:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-06-089.

Title of Rule and Other Identifying Information: The Washington State Parks and Recreation Commission has determined the need to adopt rules related to public harvesting of seaweed. The commission intends to codify this rule into the provisions of chapter 352-32 WAC, Public use of state park areas, in order to protect park resources.

Hearing Location(s): The Red Lion Inn, 221 North Lincoln, Port Angeles, WA 98362, (360) 452-9215, fax (360) 452-4734, on August 12, 2004, at 8:00 a.m.

Date of Intended Adoption: August 12, 2004, 8:00 a.m.

Submit Written Comments to: Robert Fimbel, P.O. Box 42650, Tumwater, WA 90850-2650 [98504-2650], e-mail Rob.Fimbel@parks.wa.gov, fax (360) 902-8517, by July 20, 2004.

Assistance for Persons with Disabilities: Contact Pauli Larson by August 2, 2004, TTY (360) 664-3133 or (360) 902-8505.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington State Parks and Recreation Commission is responsible for protecting those natural resources under its jurisdiction while simultaneously monitoring appropriate public enjoyment of

renewable resources. This proposed rule-making action is intended to provide a definition of seaweed, clarify the application of statutes and regulations under the jurisdiction of the state Department of Natural Resources to inform the public of the director's authority to take special actions to reduce seaweed harvest to prevent environmental damage and to specify the method of posting restrictions and closures of state park areas for seaweed harvesting.

Reasons Supporting Proposal: As specified in RCW 79.96.210, the Department of Natural Resources in cooperation with the Department of Fish and Wildlife may establish seaweed harvest limits. The state Parks and Recreation Commission coordinates the regulations related to natural resource harvesting on state park properties with these agencies. The adoption of this proposed rule will further support coordination of resources protection, consistency in publishing education and public information materials and in the uniformity of enforcement of seaweed harvesting regulations, between these state agencies.

Statutory Authority for Adoption: RCW 79A.05.030, 79A.05.035, 79A.05.055, and 79A.05.070.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The Department of Fish and Wildlife enforces maximum daily seaweed harvest limits in accordance with RCW 79.96.210, but does not have authority to enforce the directives and policies of the state Parks and Recreation Commission. In order to effect enforcement, staff proposes to promulgate this administrative rule to make restrictions currently contained in the directive enforceable. The proposed WAC also contains additional harvesting restrictions to protect the natural resource.

Name of Proponent: The Department of Fish and Wildlife and the Washington State Parks and Recreation Commission and specifically the park management for those state parks where seaweed harvesting is permitted; Fort Ebey, Fort Flagler and Fort Worden state parks, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Rob Fimbel, State Park Headquarters, P.O. Box 42650, Tumwater, WA 98504-2650, (360) 902-8592; and **Enforcement:** Phil Shave, State Park Headquarters, P.O. Box 42650, Tumwater, WA 98504-2650, (360) 902-8606.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This chapter of administrative rule does not regulate or have economic impact through regulations on small business. There are no compliance costs to small business.

A cost-benefit analysis is not required under RCW 34.05.328. Significant legislative rule-making requirements are not imposed on the state Parks and Recreation Commission, nor has the commission voluntarily applied those requirements.

July 6, 2004
Jim French, Chief

NEW SECTION

WAC 352-32-350 Seaweed harvest. (1) For the purposes of this section, seaweed is defined as all species of marine algae and flowering sea grasses.

(2) Pursuant to RCW 79A.05.165(1), all state park areas are closed to the harvest of seaweed except Fort Ebey, Fort Flagler and Fort Worden state parks which are open to the noncommercial harvest of seaweed in accordance with RCW 79.96.210 from April 16 - May 15 each year. Seaweed harvesting in state park areas is limited to posted park hours.

(3) Seaweed shall be harvested using the following techniques: The leaves of bull kelp (*Nereocystis*) will be cut no closer than twenty-four inches (61 cm) above the bulb, and short stemmed kelps such as sugar wrack (*Laminaria*) and wing kelp (*Alaria*) are to be cut no closer than twelve inches (30 cm) above the anchor point. Cutting will be done using a knife or similar instrument, leaving the anchor point in place at all times. No tearing of the plants from the substrate or trimming is allowed, and rakes, tined forks, or similar tools are prohibited. The limit weight is ten pounds wet weight (fresh-picked before cleaning) per person per day, and drying or partial drying is prohibited prior to weighing. Each harvester must use a scale to determine when the harvest weight limit has been reached, and use their own container. Multiple limits may not be combined in the same container.

(4) The director of state parks or designee may take immediate action to reduce harvest levels where there is evidence of environmental damage. Such state park areas shall post changes in the daily harvest limits to inform the public of the reduced harvest levels.

(5) No person shall harvest or possess any seaweed within a state park area closed to harvest pursuant to subsection (2) or (4) of this section, except as necessary for scientific research authorized in writing by the environmental program manager at state parks.

(6) Any violation of this section is an infraction under chapter 7.84 RCW.

WSR 04-14-081
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed July 6, 2004, 12:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-10-044.

Title of Rule and Other Identifying Information: Workers' compensation employer fraud and abuse, chapter 296-17 WAC. The 2004 legislature enacted chapter 243, Laws of 2004 (ESHB 3188) to address an employer's liability to the Department of Labor and Industries for premiums, overpayments, and penalties.

Hearing Location(s): Ramada Inn, Inland Empire Room, 8909 Airport Road, Spokane, WA 99219, (509) 838-5211, on August 10, 2004, at 10 to 11:30 a.m.; at the Red Lion Yakima Gateway, Plum Room, 9 North 9th Street, Yakima, WA 98901-2522, (509) 452-6511, on August 11,

2004, at 10 to 11:30 a.m.; at the Department of Labor and Industries, Tukwila Office Training Room, 12806 Gateway Drive, Tukwila, WA 98168-3311, (206) 835-1000, on August 16, 2004, at 10 to 11:30 a.m.; and at the Red Lion Hotel at the Quay, West River Rooms 1 and 2, 100 Columbia, Vancouver, WA 98660, (360) 750-4940, on August 17, 2004, at 10 to 11:30 a.m.

Date of Intended Adoption: September 28, 2004.

Submit Written Comments to: Department of Labor and Industries, Attn: Tammy Turner, Classification Services, P.O. Box 44148, Olympia, WA 98504-4148, e-mail TURE235@lni.wa.gov, fax (360) 902-4729, by August 17, 2004, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Office of Information and Assistance by August 6, 2004, TTY (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules will assist in the implementation of chapter 243, Laws of 2004 (ESHB 3188) by defining the terms successorship and "in good standing" and provide a clearer explanation of prime contractor responsibility. Also at the request of our customers, the department proposes to add four new risk classification subcodes in the construction industry to track firms that do not have employees but want the L&I "in good standing" certification.

New sections WAC 296-17-310301, defines "a major part" with regard to successorship; WAC 296-17-310302, addresses multiple successorship; WAC 296-17-310303, defines intangible property; WAC 296-17-310042, explains prime contractor liability; WAC 296-17-310043, provides criteria prime contractor protection; WAC 296-17-310044, defines what the law means by "in good standing;" WAC 296-17-310045, tells how to know when an account is in "good standing;" WAC 296-17-310046, establishes time line for checking accounts; WAC 296-17-310047, prime contractor liability as a result of.

Amending WAC 296-17-310041, renumbering as we are adding a "310042;" WAC 296-17-31013, prime contractors and construction contractors; WAC 296-17-52102, add subcode "99" to classification 0510; WAC 296-17-517, add subcode "99" to classification 0502; WAC 296-17-52002, add subcode "99" to classification 0507; and WAC 296-17-52150, add subcode "99" to classification 0550.

Reasons Supporting Proposal: This proposal will strengthen the department's ability to pursue premiums due. Defining successorship and further explaining prime contractor liability helps the customer understand what is expected and enables them to be compliant.

Statutory Authority for Adoption: Chapter 243, Laws of 2004 (ESHB 3188), RCW 51.04.020 (General authority), RCW 51.16.035 (Classification plan).

Statute Being Implemented: Chapter 243, Laws of 2004 (ESHB 3188), RCW 51.16.035, 51.12.070, 51.08.177, and 51.04.020.

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tammy Turner, Tumwater, Washington, (360) 902-4777; Implementation: Kathy Kimbel, Tumwater, Washington, (360) 902-4739; and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Regulatory Fairness Act requires that, before adopting significant legislative rules, a small business [economic] impact statement (SBEIS) be completed to determine whether there is a disproportionate impact on small business. The proposed changes are intended only to make possible the administration of the statutes they are based upon, and do not carry any penalty not specifically dictated by those statutes. Per RCW 34.05.310 (4)(e), the SBEIS requirement does not apply to "rules the content of which is explicitly and specifically dictated by statute."

A cost-benefit analysis is not required under RCW 34.05.328. The Administrative Procedure Act requires that, before adopting significant legislative rules, a cost benefit analysis (CBA) be completed to determine whether the probable benefits of a rule outweigh its probable costs. The proposed changes are intended only to make possible the administration of the statutes they are based upon, and do not carry any penalty not specifically dictated by those statutes. Per RCW 34.05.328 (5)(b)(v), the CBA requirement does not apply to "rules the content of which is explicitly and specifically dictated by statute."

July 6, 2004

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-31004 Coverage requirements. ~~((I own a business. Am I required to have workers' compensation insurance coverage for my employees? Nearly every employer doing business in the state of Washington is required to have workers' compensation insurance for their employees. Washington law (RCW 51.12.020) does exempt certain types of employment from coverage. A copy of this law can be found in Appendix A of the workers' compensation manual. If you employ only individuals who are excluded from mandatory workers' compensation insurance coverage, you are not required to have workers' compensation insurance coverage.))~~

NEW SECTION

WAC 296-17-310041 I own a business. Am I required to have workers' compensation insurance coverage for my employees? Nearly every employer doing business in the state of Washington is required to have workers' compensation insurance for his or her employees. Washington law (RCW 51.12.020) does exempt certain types of employment from coverage. A copy of this law can be found in **Appendix A** of the workers' compensation manual. If you employ only individuals who are excluded from mandatory

workers' compensation insurance coverage, you are not required to have workers' compensation insurance coverage.

NEW SECTION

WAC 296-17-310042 I hire contractors to perform work for me. Do I need to be concerned about premiums on their work? Yes. There are two ways you may be liable for premiums on the work they do.

First, they may be "workers" for whom you are required to report and pay premiums. The law defines worker to include both your employees and independent contractors you hire, when the essence of the contract is personal labor. See RCW 51.08.070, 51.08.180 and 51.08.195 for more guidance about when independent contractors will be considered workers.

Second, the Industrial Insurance Act imposes premium liability on anyone who contracts with another to have work performed. Even if the contractor you hire is not your worker (for example, if the contractor uses one or more workers on the job), you could be liable for their premiums if they fail to pay.

NEW SECTION

WAC 296-17-310043 Is there any way for me to protect myself from being held liable for premiums owed by construction contractors I hire? Yes, if you are a registered construction contractor or licensed electrical contractor, and you hire a registered construction contractor or a licensed electrical contractor to do construction work that requires licensing or registration, you can protect yourself from being found liable for the premiums on the work that contractor does for you if:

- (1) They have a principal place of business eligible for IRS deduction;
- (2) They keep books and records that reflect all items of income and all expenses of the business; and
- (3) You have verified that they have an industrial insurance account in good standing, or are a self-insured employer approved by the department.

NEW SECTION

WAC 296-17-310044 What does "in good standing" mean? For someone's account to be in good standing, they must:

- (1) Be registered with the department of labor and industries for industrial insurance coverage with the state fund;
- (2) Have a certificate of coverage, also known as a liability certificate, that has not been revoked or canceled;
- (3) Have submitted all reports and supplements required by the department within the past year; and
- (4) Be current with all payments due to the state fund, or are current with an approved written payment agreement with the department regarding all unpaid amounts due the state fund.

NEW SECTION

WAC 296-17-310045 How do I know that someone's account is considered to be "in good standing"? You can find out whether someone's account is in good standing by visiting the department's website or calling your account manager. If the account is in good standing, we will give you a confirmation number you can keep as proof that you verified their status.

NEW SECTION

WAC 296-17-310046 I use the same subcontractors over and over. Do I have to verify that they have an industrial insurance account in good standing every time I use them? No. In RCW 51.12.070 protection for construction contractors only requires that you have confirmed a subcontractor's account within a year prior to letting a contract. When you check out your subcontractors on the department's website or by calling your account manager, a confirmation number will be provided as proof you checked them out. This confirmation number is valid for one year from the time it is issued.

If you are notified by the department of labor and industries that a subcontractor's account is no longer in good standing, you may be liable for their industrial insurance premiums from the date of notification forward.

NEW SECTION

WAC 296-17-310047 Can I, as a construction contractor, be held liable if I verify that the accounts of construction contractors I hire are in good standing, but they fail to confirm the accounts of the construction subcontractors they hire? No. If you make sure you and your construction subcontractors meet the requirements of RCW 51.12.070, you cannot be held liable if they fail to make sure their construction subcontractors meet the requirements.

AMENDATORY SECTION (Amending WSR 01-23-059 [04-13-017], filed 11/20/01 [6/4/04], effective 1/1/02 [7/5/04])

WAC 296-17-31013 Building construction. (1) **Does this same classification approach apply to building and construction contractors?**

Yes, but it may not appear that way without further explanation. We classify contractors by phase and type of construction since it is common for each contract to vary in scope.

Example: A contractor who builds and remodels private residences may frame the structure and work on no other phases of the project. On another job the same contractor may do only the interior finish carpentry. On still another job the contractor may install a wood deck or build a garden arbor. Each of these carpentry activities is covered by a different classification code. To ensure that contractor businesses receive the same treatment as other businesses, we assign classifications according to the phases and types of construction they contract to perform. Since some contractors specialize in one area of construction, such as plumbing,

roofing, insulation, or electrical services, this classification approach mirrors that of nonbuilding contractor businesses. The policy of assigning several basic classifications to contractors engaged in multiple phases of construction may seem to be in conflict with the classification approach used for nonbuilding contractor businesses, but we have simply used the **multiple business classification approach**.

If we have assigned multiple classifications to your construction business you should take special care in maintaining the records required in the auditing and recordkeeping section of this manual. If we discover that you have failed to keep the required records we will assign all worker hours for which the records were not maintained to the highest rated classification applicable to the work that was performed.

(2) Who does this rule apply to?

If you are a building, construction or erection contractor and we have assigned one or more of the following classifications to your business, this rule applies to you: 0101, 0103, 0104, 0105, 0107, 0108, 0201, 0202, 0210, 0212, 0214, 0217, 0219, 0301, 0302, 0303, 0306, 0307, 0403, 0502, 0504, 0506, 0507, 0508, 0509, 0510, 0511, 0512, 0513, 0514, 0516, 0517, 0518, 0519, 0521, 0540, 0541, 0550, 0551, 0601, 0602, 0603, 0607, 0608, and 0701.

(3) Can I have a single classification assigned to my business to cover a specific construction project?

Yes, to simplify recordkeeping and reporting requirements we will assign a single classification to cover an entire project.

(4) How do I request the single classification for one of my construction projects?

You should send your request to the attention of your policy manager at the address below:

Department of Labor and Industries
P.O. Box 44144
Olympia, Washington 98504-4144

(5) If I have asked for a single classification on one of my construction projects, how do you determine which classification will apply?

You must supply us with a description of the project and a break down of the total number of hours of exposure by phase of construction that you are responsible for.

Example: You notify us that your company will be responsible for all plumbing and iron erection work on a commercial building site. You have requested a single classification for this project. In your request you tell us that you estimate that it will take one thousand work hours to perform all the plumbing work and five hundred work hours to do the steel erection work.

With this information we will estimate the premiums by classification.

Example: We determine that the plumbing work is covered under classification 0306 and the steel erection work is covered under classification 0518. Assume that classification 0306 has an hourly premium rate of \$1.50 and classification 0518 has an hourly premium rate of \$2.55. We estimate the total premium on this job to be \$2,775 (1,000 hours x \$1.50 = \$1,500 + 500 hours x \$2.55 = \$1,275).

Our next step in this process is to develop an average hourly rate for the project. We will use this information to

select the single classification which will apply to this project.

Example: We will take the estimated premium (\$2,775) and divide this number by the estimated hours (1,500) and arrive at an average hourly rate of \$1.85.

To select the single classification that will apply to a construction project, we will compare the average hourly rate that we have computed to the rates of the classifications applicable to the project. We will select the classification whose hourly rate is the closest to the average hourly rate that we computed from the information you supplied us with.

Example: From the information you supplied, we have determined that the average hourly rate for this project is \$1.85. We also know that the rate for the plumbing classification (0306) is \$1.50 per hour and the rate for steel erection is \$2.55 per hour. We would assign classification 0306 as the single classification applicable to this project.

(6) How will I know what classification will apply to my construction project?

We will send you a written notice which will specify the basic classification and premium rate that will apply to this project.

(7) If I have asked for a single classification to cover one of my construction projects, am I required to use the single classification which you gave me?

No, but you should call your policy manager to verify what other classifications would apply to the project. The name and phone number of your policy manager can be found on your quarterly premium report or your annual rate notice. For your convenience you can call us at (360) 902-4817 and we will put you in contact with your assigned policy manager.

(8) I am a general construction or erection contractor, I subcontract all my work and have no employees of my own. Do I have to report to the department of labor and industries?

No, since you do not have employees, you do not need to report to the department of labor and industries. You should be aware that the workers' compensation insurance laws of Washington include certain independent contractors as workers. If we determine that an independent contractor that you used qualifies as a covered worker, you will be responsible for the premium due for their work time. You can also be held responsible for premiums due to labor and industries if you subcontract with an unregistered contractor and they fail to pay premiums on behalf of their employees. It is in your best interest to make sure that your subcontractors are registered contractors ((by contacting us at 1-800-647-0982)) in good standing by confirming their status on the department's web-site or contacting your account manager.

(9) Am I required to keep any special records of subcontractors that I use?

Yes, you are required to keep certain information about the subcontractors that you use. The information required is:

- Subcontractor's legal name;
- Contractor registration number and expiration date;
- UBI number (or labor and industries account ID number).

If you supply materials to a subcontractor, also keep a record of the:

- Amount of material supplied;
- Project name or location;
- Date material was supplied; and
- Completion date of contracted work.

Failure to maintain these records may result in the sub-contractor being considered a covered worker for whom you must report hours.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

NEW SECTION

WAC 296-17-31030 Successorship and other transfers of ownership.

NEW SECTION

WAC 296-17-31031 What does the term "a major part" mean as that term is used in RCW 51.08.177? A major part refers to a significant or substantial portion of a business's property. Major does not mean more than half.

Example: A sand and gravel business owns several trucks and a gravel pit as its primary assets. Each may be considered "a major part" of the property of the taxpayer.

NEW SECTION

WAC 296-17-31032 Can a taxpayer/employer have more than one successor? Yes.

Example: Using the sand and gravel business in the example above, if the gravel pit were to be sold to one business (A) and the fleet of trucks to another business (B), both A and B would be considered successors.

NEW SECTION

WAC 296-17-31033 What is intangible property? Intangible property is property that has no physical existence, but may have value.

Example: The most common example is "goodwill." Goodwill is the value of a trade or business based on expected continued customer patronage due to its name, reputation, or any other factor. Other examples of intangible property include literary rights, bank accounts, customer lists, and internet domain names.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-517 Classification 0502.

0502-04 Rug, linoleum, tile and other floor or drainboard covering: Installation or removal

Applies to contractors engaged in the installation or removal of floor or drainboard coverings such as, but not limited to, rugs, wall to wall carpet, linoleum, vinyl, laminate, tile, parquet or astroturf in residential or commercial settings. Work contemplated by this classification includes, but is not limited to, the installation and/or removal of foam or rubber padding, floor coverings such as rugs or carpet, tack strips, door strips, subflooring (particle board or plywood), linoleum, vinyl, base board or door strips, and hauling existing

floor covering debris away. This classification also includes the installation of counter tops and the installation of clay or ceramic tiles on drainboards and backsplashes.

This classification excludes contractors engaged in the installation of counter tops as part of an interior finish carpentry or cabinetry contract which is to be reported separately in classification 0513; the installation of hardwood floors which is to be reported separately in classification 0513; the installation of decorative brick, slate, marble or granite which is to be reported separately in classification 0302; installation of roofing tiles which is to be reported separately in classification 0507; and floor covering stores which are to be reported separately in the applicable classification.

0502-99 Rug, linoleum, tile and other floor or drainboard covering: Installation or removal (only to be assigned by the floor covering specialist)

Applies to floor covering contractors who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" status for prime contractor liability.

Special note: Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-52002 Classification 0507.

0507-05 Roofwork construction and repair

Applies to contractors engaged in the installation or repair of roofing material on all types of new or existing buildings or structures. Roofing materials include, but are not limited to, felt roofing paper, rolled composition, wood, fiberglass or composition shingles or shakes, aluminum or sheet metal, masonry or ceramic tile, tar, and polyurethane foam. Installation of roofing materials varies with the product. Wood, fiberglass and composition shingles are nailed; masonry, slate or ceramic tiles require drilling, nailing or cementing; polyurethane foam is applied by spray then coated with a protective layer of paint-like material; hot tar requires melting in tanks, usually at ground level, then it is pumped or raised by bucket to the roof top and applied by spray or mop; cold apply uses an adhesive to bond roofing membranes to form a roofing system; cold tar is applied by brush, spray or mop; single ply involves large sheets of roofing material which are unrolled on the roof with edges overlapping and seamed; and metal roofing is seam welded or nailed. For purposes of this classification the term "roofwork" includes repairs to the subroof such as the replacement of trusses, rafters, supports, and sheathing, but excludes the placement of trusses, rafters, supports or sheathing on new building construction. Essentially, when removing the existing roof material from an existing building or structure it is not uncommon to find dry rot or deterioration to parts of the subroof. The repair of the subroof is part of the roof repair or replacement project and is included in this classification. By

contrast, when a subroof is constructed on new buildings or structures, this activity is to be reported separately in the classification applicable to the work being performed such as 0510 for wood frame construction or 0518 for nonwood frame construction.

This classification excludes roof cleaning, moss or snow removal on single story buildings not incidental to, or part of, a roofing contract which is to be reported separately in classification 6602; roof cleaning or moss removal of multiple story buildings not incidental to, or part of, a roofing contract which is to be reported separately in classification 0504; the installation of gutters and downspouts which is to be reported separately in classification 0519; waterproofing parts of buildings other than roofs which is to be reported separately in classification 0504 and/or 0101; placing roof trusses, rafters, supports and sheathing on new wood frame buildings which is to be reported separately in classification 0510; the application of polystyrene strips used as insulation on mobile homes which is to be reported separately in classification 0512; and placing roof trusses, rafters, supports and sheathing on new buildings, N.O.C. which is to be reported separately in classification 0518.

0507-99 Roofwork construction and repair (only to be assigned by the roofing specialist)

Applies to roofing contractors who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" for prime contractor liability.

Special note: Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

AMENDATORY SECTION (Amending WSR 00-14-052, filed 7/1/00, effective 7/1/00)

WAC 296-17-52102 Classification 0510.

0510-00 Wood frame building: Construction or alterations, N.O.C.

Applies to contractors engaged in wood frame building construction or alterations not covered by another classification (N.O.C.). For the purposes of this classification, wood frame building construction means buildings erected exclusively of wood or wood products. This classification includes all building framing activities done in connection with wood frame building construction including the placement of roof trusses, sheathing roofs, installation of exterior building siding, and the installation of exterior doors and door frames. This classification also includes the installation of windows, window frames, and skylights when performed by framing workers as part of the framing contract on a wood frame building.

This classification excludes all other phases of wood frame building construction not listed as part of the framing activities above such as, but not limited to, site preparation and excavation (0101); overhead or underground utilities, asphalt work, or concrete work which is to be reported separately in the applicable classification; new landscape work

(0301); brick work (0302); stucco work (0303); plumbing work (0306); HVAC work (0307); carpet and tile work (0502); exterior painting (0504); roof work (0507); insulation work (0512); interior finish carpentry - interior doors, cabinets, fixtures or molding (0513); installation of garage doors (0514); installation of sheet metal siding, gutters, and non-structural sheet metal patio covers/carports (0519); interior painting (0521); electrical work (0601) or wallboard installation, taping or texturing which are to be reported separately in the applicable classifications. For a more thorough description of the activities included and excluded from wood frame building construction, review the Construction Industry Guide.

Special note: Classification 0510 also includes wood frame building alterations or remodel work when the activity involves building new additions. The term "new additions" is defined as adding on to an existing wood frame building (upwards or outwards) in which the use of structural supports and main bearing beams is required. This is distinguishable from classification 0516 - building repair or carpentry work that typically does not require the placement of structural supports or main bearing beams. The purpose of classification 0516 is to build or rebuild with nonstructural or bearing beams, or to replace an existing portion (including existing structural and bearing beams) of a wood frame building for appearances or as a result of deterioration to make it appear new again. Care should be exercised as the terminology to build, rebuild, remodel, construct or reconstruct is irrelevant to assignment of classification which should recognize what the project actually involves.

Guidelines:

Constructing a new wood frame building that never existed - 0510

Altering all or part of an existing wood frame building by adding on new additions - 0510

Remodeling all or part of an existing wood frame building *without* adding on new additions - 0516

Installation of wood or vinyl siding on a new or existing wood frame building - 0510

Constructing a new wood garage that never existed - 0510

Altering all or part of an existing wood garage by adding on new additions - 0510

Remodeling all or part of an existing wood garage *without* adding on new additions - 0516

Constructing a new wood carport or wood shed that never existed - 0510

Rebuilding an existing wood carport or wood shed (all or part) with or without new additions - 0516

Construction of a new wood deck by the framing contractor when a new wood house is being built - 0510

Constructing or replacing a wood deck on an existing wood house - 0516

Constructing or replacing a wood deck for any type of nonwood building - 0516

Altering the existing interior of a wood frame building by adding exterior additions - 0510

Remodeling the existing interior of a wood frame building without adding exterior additions - 0516

Constructing, altering, or remodeling the interiors of nonwood frame buildings - 0516

Installation of windows, window frames, and skylights when performed by framing workers as part of the framing contract of a wood frame building - 0510.

0510-99 Wood frame building: Construction or alteration, N.O.C. (only to be assigned by the wood framing specialist)

Applies to framing contractors, who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" status for prime contractor liability.

Special note: Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

AMENDATORY SECTION (Amending WSR 02-09-093, filed 4/17/02, effective 7/1/02)

WAC 296-17-52150 Classification 0550.

0550-00 Wallboard installation, including scrapping - nondiscounted rate (to be assigned only by the drywall underwriter)

Applies to contractors engaged in the installation or repair of wallboard. This classification includes the installation of wallboard, drywall, or sheetrock in all types of residential or commercial buildings or structures. The process consists of cutting wallboard with a utility knife, hacksaw, or power saw to the desired size and then butting material into place and nailing or screw fastening to wood or metal wall studs. Electrical box, window, or door openings are cut out where needed. Installation may require the use of scaffolding, ladders, specialty lifts, or stilts when working at heights, including the use of T holders or hydraulic lifts to hold material being installed on ceilings. This classification also includes wallboard scrapping (picking up and discarding unused portions of wallboard remnants or scraps) at the construction site when performed by employees of the wallboard contractor.

This classification excludes delivery of materials to the construction site by material dealer employees which is to be reported separately in the applicable delivery classification; delivery and stocking of materials to the construction site when performed by employees of the wallboard contractor which is to be reported separately in classification 1101; wallboard taping (including priming and texturing when performed by employees of the wallboard contractor) which is to be reported separately in classification 0541 or 0551; wallboard scrapping by nonwallboard contractor employees which is to be reported separately in the applicable construction debris cleanup classification; plastering, stuccoing or lathing work which is to be reported separately in classification 0303; and the framing of nonbearing walls when per-

formed by the drywall contractor which is to be reported separately in classification 0516.

0550-99 Wallboard installation (only to be assigned by the drywall specialist)

Applies to drywall contractors who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for account in good standing for prime contractor liability.

Special note: Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

**WSR 04-14-082
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed July 6, 2004, 12:29 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-10-044.

Title of Rule and Other Identifying Information: Claimant willful misrepresentation.

New sections:

WAC 296-14-4121 What does the term "willful misrepresentation" mean with regard to the receipt of workers' compensation benefits?

- Provides definition of willful misrepresentation.

WAC 296-14-4122 For the purposes of determining willful misrepresentation, what does the term "specific intent" mean?

- Provides definition of specific intent.

WAC 296-14-4123 What is meant by "work-type activity"?

- Provides definition of work-type activity.

WAC 296-14-4124 What are considered "wage replacement benefits"?

- Provides definition of wage replacement benefits.

WAC 296-14-4125 How does the department calculate the amount of overpayment charged to a claimant when a determination of "willful misrepresentation" has been made in the initial claim adjudication?

- Provides guidelines on how the department calculates overpayments when willful misrepresentation occurs at initial claim adjudication.

WAC 296-14-4126 How does the department calculate the amount of overpayment charged to a claimant when a determination of "willful misrepresentation" has been made after initial claim adjudication?

- Provides guidelines on how the department calculates overpayments when willful misrepresentation occurs after initial claim adjudication.

WAC 296-14-4127 How are penalties determined?

PROPOSED

- Provides how the department calculates penalties based on existing law.

WAC 296-14-4128 When may the department impute wages in cases where willful misrepresentation has been determined?

- Provides guidelines to determine when the department may impute wages.

WAC 296-14-4129 How will imputed wages be determined?
Provides guidelines on how the department will impute wages.

Hearing Location(s): Ramada Inn, Inland Empire Room, 8909 Airport Road, Spokane, WA 99219, (509) 838-5211, on August 10, 2004, at 1 to 2:30 p.m.; at the Red Lion Yakima Gateway, Plum Room, 9 North 9th Street, Yakima, WA 98901-2522, (509) 452-6511, on August 11, 2004, at 1 to 2:30 p.m.; at the Department of Labor and Industries, Tukwila Office Training Room, 12806 Gateway Drive, Tukwila, WA 98168-3311, (206) 835-1000, on August 16, 2004, at 1 to 2:30 p.m.; and at the Red Lion Hotel at the Quay, West River Rooms 1 and 2, 100 Columbia, Vancouver, WA 98660, (360) 750-4940, on August 17, 2004, at 1 to 2:30 p.m.

Date of Intended Adoption: September 28, 2004.

Submit Written Comments to: Valerie Grimm, P.O. Box 44208, Olympia, WA 98504-4208, e-mail colb235@lni.wa.gov, fax (360) 902-5005, by August 17, 2004.

Assistance for Persons with Disabilities: Contact Valerie Grimm by August 9, 2004, TTY (800) 833-6388 or (360) 902-5005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules will assist in the implementation of chapter 243, Laws of 2004 (ESHB 3188).

The purpose of the proposed rules is to:

- Define terms used in the statute, and
- Clarify when and how wages are imputed, and
- Clarify when and how overpayments are established.

Reasons Supporting Proposal: The proposed rules will provide a consistent means for implementing the statutory change, thus reducing inconsistent interpretation and application of the law and potentially unnecessary litigation.

Statutory Authority for Adoption: RCW 51.04.010, 51.04.020, 51.32.240 and chapter 243, Laws of 2004 (ESHB 3188).

Statute Being Implemented: RCW 51.32.240.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The proposed rules will provide a consistent means for implementing the statutory change, thus reducing inconsistent interpretation and application of the law and potentially unnecessary litigation.

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Vickie Kennedy, Tumwater, Washington, (360) 902-4997; Implementation and Enforcement: Carl Hammersburg, Tumwater, Washington, (360) 902-6536.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In the adoption of a rule under chapter 34.05 RCW, an agency shall prepare a small business economic impact statement if the proposed rule will impose more than minor costs on businesses in an industry (RCW 19.85.030 (1)(a)). Since these rules, and any associated costs apply only to individuals who fail to comply with existing law, compliance is without cost and no SBEIS is required.

A cost-benefit analysis is not required under RCW 34.05.328. When an agency adopts a significant legislative rule, the agency must "determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented." (RCW 34.05.328 (1)(d).) Since these rules, and any associated costs apply only to individuals who fail to comply with existing law, compliance is without cost and no cost-benefit analysis is required.

July 6, 2004

Paul Trause

Director

NEW SECTION

WAC 296-14-4121 What does the term "willful misrepresentation" mean with regard to the receipt of workers' compensation benefits? This term is found in RCW 51.32.240(5) which provides a fifty percent penalty, in addition to any overpayment, whenever any payment of benefits has been induced by "willful misrepresentation." The law goes on to state that it is willful misrepresentation for a person to obtain payments or other benefits in an amount greater than that to which he or she would have otherwise been entitled. Willful misrepresentation includes making a willful false statement or the willful misrepresentation, omission, or concealment of any material fact.

(1) Willful means a conscious or deliberate false statement, misrepresentation, omission, or concealment of a material fact with the specific intent of obtaining, continuing, or increasing workers' compensation benefits. Failure to disclose a work-type activity must be willful in order for a misrepresentation to have occurred.

(2) The assessment of the fifty percent penalty does not apply to those instances where the misrepresentation is not willful, as defined above. For example, a worker receives wages at the time of injury of \$10.25 per hour, but he inadvertently indicates on the report of industrial injury or occupational disease that his pay is \$10.75 per hour. The state fund employer fails to submit a completed report form and the time-loss compensation benefit rate is based on wages of \$10.75 per hour. When this information is provided to the employer, worker, and medical provider by legal order, no interested party submits a protest within the statutory time frame, but further investigation later reveals the misinformation. An overpayment determination under RCW 51.32.240(1) may be appropriate upon discovery of the correct hourly pay rate, but the worker has not engaged in willful misrepresentation with specific intent to obtain benefits to which he would have otherwise not been entitled.

NEW SECTION

WAC 296-14-4122 For purposes of determining willful misrepresentation, what does the term "specific intent" mean? "Specific intent" means the commission of an act or the omission of information with the knowledge that such an act or omission will lead to wrongfully obtaining benefits. For example, a worker who completes a document knowingly misrepresenting that he/she is unable to perform work or work-type activities has committed an act. Submitting this document to the department or self-insurer in order to wrongfully receive workers' compensation benefits under Title 51 RCW represents specific intent.

Examples of the omission of information with the intent of obtaining benefits include, but are not limited to, failure of the worker to advise the department or self-insurer of a return to work or of self-employment; or failure to provide the department or self-insurer with complete information about skills and abilities that would have changed the outcome of a vocational assessment or the department's decision to provide vocational services. Not providing this information to the department or self-insurer represents specific intent because the omission of it can cause continued workers' compensation benefits to which the worker would not have been entitled had the information been provided.

The following is an example of a situation that does not represent "specific intent": An injured worker's wife is hired to manage the mobile home park where they live. Wages were paid to her for the management duties. The injured worker would occasionally answer the telephone when his wife was not available and he opened and closed the park gates each morning. He did not engage in the maintenance work of the park, provide tours of the park to prospective customers or perform any other park management duties. The worker did not report this activity to the department, his physician or his vocational counselor. The worker's omission of information is not considered "willful misrepresentation" with "specific intent" to receive benefits to which he would not be otherwise entitled.

NEW SECTION

WAC 296-14-4123 What is meant by "work-type activity"? (1) Work-type activity means any activity for which a reasonable person would expect to be compensated or for which a reasonable employer would expect to pay compensation.

(2) Work-type activity does not mean exploration of a job for a short period of time to determine whether the worker can do the job so long as:

- (a) The worker does not receive wages, income, or anything of value; and
- (b) The worker or his/her family has no financial interest in or benefits from the worker's job exploration.

Activity done intermittently or as a hobby that does not generate income will not generally rise to the level of repeated work-type activity.

For example, a worker who is receiving wage replacement benefits volunteers two hours each day for a recognized charity greeting customers and operating the cash register. His treating physician is aware of this activity and encour-

ages it to keep him more active, but does not release him to work or to perform this function more than two hours daily. The worker does not initially inform the department of his activity because he receives no compensation and would not expect to. The department learns of the volunteer work when the worker completes a worker verification form indicating the volunteer activity. No willful misrepresentation of a work-type activity has occurred in this case.

NEW SECTION

WAC 296-14-4124 What are considered as "wage replacement benefits"? Wage replacement benefits include temporary total disability (time-loss compensation benefits), temporary partial disability (loss-of-earning power benefits), and total permanent disability or survivor benefits (pension).

NEW SECTION

WAC 296-14-4125 How does the department calculate the amount of overpayment charged to a claimant when a determination of "willful misrepresentation" has been made in initial claim adjudication? Overpayments are assessed in cases where there has been willful misrepresentation.

When it is determined that a claim was initially accepted as an industrial injury or occupational disease based on willful misrepresentation, the overpayment calculation includes all wage replacement benefits, permanent partial disability benefits, medical benefits, vocational benefits, and other medical aid fund benefits paid on the claim.

NEW SECTION

WAC 296-14-4126 How does the department calculate the amount of overpayment charged to a claimant when a determination of "willful misrepresentation" has been made after initial claim adjudication? (1) Overpayments are assessed in cases where there has been willful misrepresentation. The overpayment calculation in these claims includes all or part of wage replacement benefits and may include permanent partial disability benefits, vocational, medical benefits, and/or other medical aid fund benefits paid on the claim for the period as described below.

(a) The period of overpayment will begin with either the first date of willful misrepresentation or the first date of the repeated pattern of work or work-type activities.

(b) Medical benefits: Medical benefits paid on a claim may be included when a treating physician's opinion of the need for further treatment related to the claim, or his/her opinion of a condition's maximum medical improvement was changed by the willful misrepresentation. Only those medical services to which the worker would not have been otherwise entitled are included in the overpayment.

(c) Vocational benefits: Vocational benefits may be included when it is determined, because of the willful misrepresentation, that the vocational services would not have been provided but for the misrepresentation.

(d) Permanent partial disability benefits: Permanent partial disability benefits will be included when the worker's willful misrepresentation results in the receipt of permanent

partial disability benefits to which the worker would not otherwise have been entitled.

(e) Other medical aid fund benefits: Other medical aid fund benefits may be included such as travel and lodging.

(f) Wage replacement benefits:

(i) The overpayment will include all of the wage replacement benefits resulting from willful misrepresentation when the worker has:

(A) Misrepresented his/her physical restrictions or engaged in a repeated pattern of work or work-type activities; and

(B) The worker would have been released by a physician to return to the job of injury had the repeated pattern of work or work-type activities been disclosed. In cases where a treating physician is unwilling or unable to render an opinion in this situation, the opinion of a consulting physician or independent medical examiner may be used; or

(C) In the case of total permanent disability benefits, the work or work-type activity is such that the imputed wages are equivalent to gainful employment; or

(D) In the case of survivor benefits, the willful misrepresentation was such that the beneficiary would not have been entitled to benefits were it not for the misrepresentation.

(ii) The overpayment will include all or part of the wage replacement benefits to which the worker would not otherwise have been entitled were it not for the repeated pattern of work or work-type activities when the worker has:

(A) Misrepresented his/her physical restrictions or has engaged in a repeated pattern of work or work-type activities; and

(B) The department would have determined that the worker returned to work; or

(C) A vocational counselor would have determined that the worker was employable in accordance with department rules.

(2) In cases, other than pension, when the wages or imputed wages are less than the total wage at the time of injury, the wage replacement portion of the overpayment equals the wage replacement benefit paid less the entitled loss-of-earning power benefits. However, this reduction will cease either the date the department had evidence of or a physician would have determined the worker had reached maximum medical improvement (MMI) had the repeated pattern of work or work-type activity been disclosed. In cases where a treating physician is unwilling or unable to render an opinion in this situation, the opinion of a consulting physician or independent medical examiner may be used. From that date forward, the wage replacement portion of the overpayment includes all wage replacement benefits paid.

NEW SECTION

WAC 296-14-4127 How are penalties determined? As provided in RCW 51.32.240, the penalties equal fifty percent of the total overpayment amount.

NEW SECTION

WAC 296-14-4128 When may the department impute wages in cases where willful misrepresentation

has been determined? The department may impute wages when:

- The worker is self-employed; or
- Appropriate payroll records are not available; or
- The employer is paying the worker in cash or material without maintaining appropriate payroll records; or
- There is no employer but the worker has engaged in a repeated pattern of work-type activities or has willfully misrepresented his or her physical restrictions.

NEW SECTION

WAC 296-14-4129 How will imputed wages be determined? (1) When the worker has performed work or work-type activities within the state of Washington, the department imputes wages based on information collected and reported by the department of employment security. This information may include wages for the same or similar jobs within the geographic area proximate to the worker and for the same or most proximate time period as the work or work-type activities performed.

(2) When the worker performed work or work-type activities outside the state of Washington for which wages are to be imputed, the department will use information collected and reported by the United States Department of Labor Statistics to determine the correct imputed wage.

(3) In no case shall the imputed wages equal less than the hourly minimum wage for the proximate time period and geographic area used.

(4) If the worker engaged in reduced work or work-type activities when compared to the employment at the time of injury, except in pension cases, the department shall calculate the loss-of-earning power benefits consistent with RCW 51.32.090(3) to which the worker would have been entitled based on the imputed wage.

Example of imputed wage: A worker received time-loss compensation benefits and contended he was unable to work in his regular job as a construction laborer. Investigation showed that he was working painting houses on a regular full-time basis. The work he performed was ongoing over an extended period of time. Payments for this work were reportedly on a cash basis and no records were kept.

Wages would be imputed based on the average wage of a painter in his local area as reported by the department of employment security.

Example of reduced work or work-type activity: A worker was receiving time-loss compensation benefits for a shoulder injury she suffered while working as a registered nurse. She contended she was unable to perform nursing duties. The department received evidence that she had in fact been working on a regular basis as a cashier in her husband's delicatessen. There were no wages reported for this work. The evidence also showed she had worked there for several months.

The medical and vocational providers were shown the investigative evidence and they determined the worker was able to work and had returned to work as a cashier.

The department would impute wages based on the average wage paid by the business owner to other employees in the same position. If there were no other employees, wages

would be imputed based on the average wage of a cashier in the local area as reported by the department of employment security.

Example of release for work and no imputed wage: A worker, who was a carpenter on the date of injury, was receiving time-loss compensation benefits based on his alleged inability to return to work. He contended he had to use a wheelchair to get around.

Video evidence was obtained showing him performing extensive remodeling work on a rental home he owned. He did not use the wheelchair and there was no indication he had any difficulties performing the work. His activities included installing siding and windows, painting, and performing other activities inconsistent with his alleged level of disability. He received no wages as the work was done on his personal property.

The video was shown to his attending physician. The physician withdrew his certification of the worker's entitlement to time-loss compensation benefits and released him to return to work at his job of injury effective the first date of the video surveillance.

There is no need to impute wages because the release for work was to the job of injury.

WSR 04-14-083
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed July 6, 2004, 12:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-03-084.

Title of Rule and Other Identifying Information: Chapter 296-155 WAC, Safety standards for construction work, after the department adopted rules protecting flaggers in construction sites in January 2001, WISHA received requests from stakeholders to review the rules regulating protection of construction workers on the construction sites. There have been eight fatalities since 1999 that could have been prevented with rules that are more protective of construction workers. The rule is intended to reduce or eliminate the number of serious injuries and fatalities by increasing worker protection from vehicular traffic on construction sites. The department has adopted an emergency rule to address the hazards presented by backing dump trucks. This proposal will include these and other protective requirements.

In May of 2004, the department filed an emergency rule to address the six preventable fatalities since 1999 of workers being backed over by dump trucks.

Hearing Location(s): Westcoast Ridpath Hotel, Room: Legend A, 515 West Sprague Avenue, Spokane, WA 99201, on September 14, 2004, at 9:30 a.m.; and at the Department of Labor and Industries, Room: Auditorium, 7273 Linderson Way S.W., Tumwater, WA 98501, on September 17, 2004, at 1:30 p.m.

Date of Intended Adoption: November 17, 2004.

Submit Written Comments to: Jamie Scibelli, Administrative Regulations Analyst, Department of Labor and Industries, WISHA Division, P.O. Box 44620, Olympia, WA 98504-4620, fax (360) 902-5529, by September 24, 2004.

Assistance for Persons with Disabilities: Contact Sally Elliott by August 31, 2004, yous235@lni.wa.gov or (360) 902-5484.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule contains requirements relating to hazards on construction work sites. For anticipated effects, see the department's small business economic impact statement (SBEIS) and cost-benefit analysis (CBA).

Reasons Supporting Proposal: State-initiated amendments are proposed in response to stakeholder requests that the department adopt permanent rules to protect construction site employees. In addition, the department is proposing to rewrite and clarify requirements relating to hazards on construction sites. The following is being proposed:

WAC 296-155-165 Lighting and illumination.

- Remove language in this section and add a reference to the lighting requirements in WAC 296-800-210 Lighting of the safety and health core rules.
- No additional compliance requirements are being established.

WAC 296-155-200 General requirements.

- Change the title of this section to "General requirements for personal protective equipment (PPE)."
- Reorganize and rewrite this section for clarity.
- Add definitions of "hours of darkness," "short-sleeved shirt" and "long pants."
- Add helpful references to other WISHA rules.
- Change requirement for high-visibility garments at night to meet Class 2 specifications of ANSI/ISEA 107-1999.
- Add a note explaining how to obtain ANSI/ISEA 107-1999.

WAC 296-155-300(7) Traffic signs.

- Update the reference to the Washington State Department of Transportation's Manual on Uniform Traffic Control Devices (MUTCD).
- Add a note explaining how to obtain the MUTCD.
- No additional compliance requirements are being established.

WAC 296-155-305 Signaling and flaggers.

- Reorganize and rewrite this section for clarity.
- Add a title of subsection (1) as "General requirements for signaling and flaggers."
- Rewrite this section to clarify when the requirements of this section apply and when the MUTCD applies.
- Add definition of "flagger."
- Update the references to the Washington State Department of Transportation's Manual on Uniform Traffic Control Devices (MUTCD).
- Add a title of subsection (2) as "When to use flaggers."
- Add a title of subsection (3) as "Flagger signaling."
- Incorporate language from current WAC 296-155-305(4) into the proposed WAC 296-155-305(3).

- Add a title of subsection (4) as "Adequate warning of approaching vehicles."
- Incorporate language from the current WAC 296-155-305(8) into the proposed WAC 296-155-305(4).
- Add a title of subsection (5) as "High-visibility garments for flaggers."
- Add a title of subsection (6) as "Flagger training."
- Incorporate language from the current WAC 296-155-305(7) into the proposed WAC 296-155-305(6).
- Add a title of subsection (7) as "Flagger orientation and traffic control plan."
- Incorporate language from the current WAC 296-155-305(9) into the proposed WAC 296-155-305(7).
- Add a title of subsection (8) as "Advance warning signs."
- Incorporate language from the current WAC 296-155-305(10) into the proposed WAC 296-155-305(8).
- Add a title of subsection (9) as "Providing a safe job site for flaggers."
- Add language and table to clarify the distance of the flagger station in advance of the work space.
- Add requirement in subsection (9) for flaggers to stand in the shoulder or a closed lane.
- Add a definition of "road user."
- Incorporate language from the current WAC 296-155-305(11) into the proposed WAC 296-155-305(9).

WAC 296-155-310 Barricades.

- Update the reference to the Washington State Department of Transportation's manual on Uniform Traffic Control Devices (MUTCD).
- No additional compliance requirements are being established.

WAC 296-155-610 Motor vehicles.

- Reorganize and rewrite this section for clarity.
- Change the title of this section to "Motor Vehicles on Construction Sites."
- Change the title of subsection (1) to "Scope."
- Change the title of subsection (2) to "General requirements for motor vehicles."
- Add a title of subsection (2)(a) as "Braking systems."
- Add a title of subsection (2)(b) as "Before leaving a motor vehicle unattended."
- Add a title of subsection (2)(c) as "Lighting systems."
- Add a title of subsection (2)(e) as "Operating vehicles, other than passenger cars and pickups, with an obstructed view to the rear."
- Add subsection (2)(f) "Operating dump trucks in reverse." This section will require an observer when operating a dump truck in reverse.
- Add a title of subsection (2)(g) as "Windshields."
- Add a title of subsection (2)(h) as "Haulage vehicles."
- Add a title of subsection (2)(i) as "Securing material and employees."
- Add a requirement to use seat belts that are already required by this section.
- Add a title of subsection (2)(k) as "Fenders on motor vehicle equipment."
- Add a title of subsection (2)(l) as "Vehicle safety inspections."

WAC 296-155-615 Material handling equipment.

- No additional compliance requirements are being established.
- Change the title of this section to "General requirements for earthmoving equipment."
- Add a title of subsection (1)(a) as "Scope."
- Incorporate current language from WAC 296-155-615 (1)(b) and (m) into the proposed WAC 296-155-615 (1)(b).
- Incorporate current language from WAC 296-155-615 (1)(g) into the proposed WAC 296-155-615 (1)(f).
- Incorporate current language from WAC 296-155-615 (1)(i)-(iii) into the proposed WAC 296-155-615 (1)(g).
- Repeal current section WAC 296-155-615 (1)(h).
- Incorporate current language from WAC 296-155-615 (1)(i)(iv) into the proposed WAC 296-155-615 (1)(h).
- Incorporate current language from WAC 296-155-615 (1)(j) into the proposed WAC 296-155-615 (1)(i).
- Incorporate current language from WAC 296-155-615 (1)(k), WAC 296-155-615 (1)(l) and WAC 296-155-615 (1)(q) into the proposed WAC 296-155-615 (1)(j).
- Incorporate current language from WAC 296-155-615(1)(n) into the proposed WAC 296-155-615 (1)(k).
- Incorporate current language from WAC 296-155-615 (1)(o) and (p) into the proposed WAC 296-155-615 (1)(l).
- Incorporate current language from WAC 296-155-615 (1)(r) into the proposed WAC 296-155-615 (1)(m).
- Incorporate current language from WAC 296-155-615 (1)(s) and (t) into the proposed WAC 296-155-615 (1)(n).

WAC 296-155-655 General protection requirements.

- Add a reference to WAC 296-155-200 General requirements for personal protective equipment (PPE).
- No additional compliance requirements are being established.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael Silverstein, Tumwater, (360) 902-5495.

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

Small Business Economic Impact Statement

INTRODUCTION: In 2000, the Department of Labor and Industries (L&I) began a process for developing rules to protect construction site/work zone workers on foot from vehicular hazards on job sites. This process began in response to a request from industry stakeholders who expressed concerns about the high incidence of traffic related fatalities and injuries on worksites.

Throughout 2001, a volunteer stakeholder work group, comprised of representatives from labor, business, the Wash-

ington State Department of Transportation, and Labor and Industries staff, drafted suggestions for the development of appropriate rule language. The work group propose several new WAC sections (WAC 296-155-100 through 296-155-612). However, many questions and concerns were raised during the public hearings on the proposed rules, and they were withdrawn on July 19, 2002.

In the intervening months, a review of the work zone fatality data revealed that the implementation of some set of construction site/work zone traffic safety rules was imperative. The reasons for this lie in the very high fatality rate on Washington state's construction sites. From 1998 to 2003, in Washington state alone, there were seventeen vehicle related fatalities on construction sites. Of these incidents, six or 35% were the result of a dump truck backing over an individual. Notably, operations at the sites were in full compliance with the current safety requirements in that back up alarms, the only current requirement for vehicles with obstructed views, were operable on the vehicles involved in all but one of the fatalities.

As a result of these findings, L&I is proposing Washington Administrative Code (WAC) amendments to update and improve the Washington Industrial Safety and Health Act (WISHA) rules intended to regulate traffic safety at construction sites. Specifically, the department is proposing amendments to chapter 296-155 WAC, Safety standards for construction work, including amendments to WAC 296-155-200 General requirements for personal protective equipment and 296-155-610 Motor vehicles.

ECONOMIC ANALYSES REQUIREMENTS OF THE REGULATORY FAIRNESS ACT: Proposed rules and rule amendments must meet the requirements of the Regulatory Fairness Act (RFA), chapter 19.85 RCW before adoption. The RFA is intended to ensure, if legal and feasible, that rules do not impose disproportionate economic burdens on small business. The RFA requires that a small business economic impact statement (SBEIS) be prepared for proposed rules that impose more than minor costs on businesses in an industry.

According to the RFA, the SBEIS must contain the following:

(1) A brief description of the reporting, record keeping and other compliance requirement of the proposed rule along with the kinds of professional services that a small business is likely to need for compliance.

(2) An analysis of all the business compliance costs of the proposed rule.

(3) Where reasonably applicable, a consideration of whether compliance with the rule will cause businesses to lose sales or revenues.

(4) The compliance cost of proposed regulations on small businesses' is estimated and compared to the compliance cost estimates for the largest 10% of businesses in an industry. These cost comparisons can be estimated as per employee business costs.

(5) A statement of the steps taken by the agency to reduce the costs of the rule on small businesses as required by RCW 19.85.030(2), or reasonable justification for not doing so, addressing the options listed in RCW 19.85.030(2).

(6) A description of how the agency will involve small businesses in the development of the rule.

(7) A list of industries that will be required to comply with the rule. However, this shall not be construed to preclude application of the rule to any business or industry to which it would otherwise apply.

Details on the proposed rules that require small business economic impact analysis are as follows:

PERSONAL PROTECTIVE EQUIPMENT: WAC 296-155-200 General requirements for personal protective equipment, the proposed rule would require employees exposed to moving vehicles during hours of darkness to wear vests designed according to Class 2 specifications in American National Standards Institute/Industrial Safety Equipment Association (ANSI/ISEA) 107-1999. The relevant ANSI/ISEA specifications are described below.

IF: Construction employees' duties are performed during hours of darkness, AND the employees are in areas and under circumstances where they are working in close proximity to moving vehicles

THEN: At a minimum, employees must wear:

A high-visibility safety garment designed according to Class 2 specifications in ANSI/ISEA 107-1999, American National Standard for High-Visibility Safety Apparel.

ANSI/ISEA 107-1999 says that an acceptable garment contains at least 775 square inches of background material and 201 square inches of retroreflective material that encircles the torso and is placed to provide 360 degrees visibility around the employee.

For the purpose of this rule, "hours of darkness" is defined as one half hour before sunset to one half hour after sunrise.

MOTOR VEHICLES: Currently, WAC 296-155-610 Motor vehicles, requires that no employer allow the use of any motor vehicle equipment having an obstructed view to the rear unless:

1. Vehicles other than passenger cars and pickups shall have an automatic reverse signal alarm audible above the surrounding noise level no less than fifteen feet from the rear of the vehicle

OR

2. The vehicle is backed up only when an observer signals that it is safe to do so.

The proposed rule leaves this requirement unchanged except with respect to dump trucks. Specifically the proposed rule would require that dump trucks be operated in reverse only when:

1. The dump truck has an operating automatic reverse signal alarm that is audible above the surrounding noise level no less than fifteen feet from the rear of the vehicle

AND

2. If there are unprotected employees on the ground within fifty feet behind the backing dump truck, the dump truck must stop and not proceed until an observer signals that it is safe to do so. The observer must continue to direct the dump truck as long as it is being operated in reverse and there are employees within 50 feet of the back of the vehicle.

OR: If a dump truck has an operable mechanical device, such as a rear view camera, which provides the driver with a full view behind the dump truck, that vehicle is exempt from the observer requirement because its blind spot has been effectively eliminated. However, vehicles with such

mechanical devices must still have an operating automatic reverse signal alarm that meets the requirements described above.

ASSESSING COMPLIANCE COSTS: A cover letter and compliance cost survey were sent to firms that L&I staff believed were likely to be affected by the proposed rules. The survey had two sections, the first on WAC 296-155-200, General requirements for personal protective equipment and the second on WAC 296-155-610 Motor vehicles.

The mailing list for the survey, with addresses chosen randomly from L&I's quarterly reporting list, was comprised of 10% of the firms from the following Standard Industrial Classifications²:

- 1521 General Building & Contractors—Including Residential
- 1541 Industrial Building and Warehouses
- 1542 Nonresidential Construction
- 16 Heavy Construction
- 1771 Concrete Work, Structural Steel—Including Asphalt Paving
- 1791 Erection
- 1794 Excavation work-contractors
- 4813 Telephone Communications
- 491 Electrical Services
- 493 Gas Production & Distribution

In all, eight hundred forty-nine surveys were mailed to firms in these classifications, and two hundred seventeen were returned. Of the two hundred seventeen surveys returned, two hundred nine contained enough information to be used in the analysis for the personal protective equipment, and one hundred ninety-seven contained enough information to be used in the analysis for motor vehicles on construction sites. The resulting response rates were approximately 25% for personal protective equipment and approximately 23% for motor vehicles.

Respondents were asked some general questions about their businesses, including number of employees and the classification that they believed best described their operations. The following is a summary of the information provided by the respondents on these questions:

- Small Businesses: 199 or approximately 92%
- Large Businesses: 18 or approximately 8%

These proportions closely match those found in the surveyed population where 95% of firms report fewer than fifty employees.

Industry and/or sector that best describes the firm's operations:

Classification	Number of Surveys Received	Percent of Total Surveys Received
Asphalt paving	5	2.30%
Concrete work	21	9.68%
Excavation work-contractors	5	2.30%
Gas production and distribution	1	0.46%
General building contractors	115	53.00%
Government operations	4	1.84%

Classification	Number of Surveys Received	Percent of Total Surveys Received
Heavy construction	23	10.60%
Nonresidential construction	7	3.23%
Structural steel erection	2	0.92%
Telephone communications	6	2.76%
Wrecking and demolition	1	0.46%
Other	27	12.44%
Total	217	100%

Respondents were then asked a series of questions to determine whether their operations were already in compliance with the rule, and if not, what their expected compliance costs would be if the proposed rule was adopted. Results from these questions were used to assess the probable costs of the rule, and whether those costs fall disproportionately on small business. The following sections describe the details obtained from these results.

**ECONOMIC IMPACT OF PROPOSED CHANGES TO WAC 296-155-610
GENERAL REQUIREMENTS FOR PERSONAL PROTECTIVE EQUIPMENT**

With respect to the proposed increase in the PPE requirement, survey respondents were asked to answer one to five questions that were chosen to determine the following:

- (1) Whether a firm's employees work in close proximity to moving vehicles during hours of darkness. If not, they are not subject to the rule.
- (2) If they are subject to the rule, whether their employees already wear ANSI/ISEA Class 2 garments. If they do, they are considered to be in compliance with the proposed rule.
- (3) If they are not already in compliance with the proposed rule, how many garments they expect they will need to purchase in order to comply.
- (4) Whether they believe that they will need to purchase replacement garments on a regular basis, due to wear, loss, etc. If so, how many replacement garments they believe they will need to purchase annually.

The results obtained from the usable surveys are as follows:

Of the two hundred nine usable surveys, only thirty or approximately 14% of the firms reported that their employees were exposed to vehicular hazards during hours of darkness.

The largest 10% of businesses reported that they were currently in compliance and therefore would not incur any new costs as a result of the rule.

The small businesses that were subject to the rule reported that they would need to purchase eighty-one garments in the first year of the rule and a total of two hundred thirty employees. Using an assumed cost of \$17.22³ per garment, this leads to a total compliance cost of approximately \$1,395, and a per employee cost of just over \$6.00. With respect to replacement garments in future years, respondents reported that they would require approximately twenty-six additional garments per year at a total cost of \$447.72⁴, and a per employee cost of \$1.95.

PROPOSED

**PROBABLE COSTS OF PROPOSED CHANGES TO WAC 296-155-610
MOTOR VEHICLES
(DUMP TRUCK OBSERVER REQUIREMENT)**

With respect to the proposed observer requirement, survey respondents were asked to answer one to seven questions that were chosen to determine the following:

(1) Whether a firm uses dump trucks. If not, they are not subject to the proposed rule.

(2) Whether a firm that uses dump trucks also uses rear view cameras to eliminate the blind spots behind those trucks. If so, they are not subject to the observer requirement because a rear view camera effectively eliminates blind spots behind their dump trucks.

(3) Whether they already required an observer in the circumstances described by the rule. If so, they are considered in compliance with the proposed rule.

(4) If they do not already use observers in all instances where one would be required under the proposed rule, whether they believe that the requirement would cause their employees to work additional hours.

(5) If they believe that their employees would be required to work additional hours as a result of the rule, how many additional hours did they believe would be required in order to bring their operations into compliance.

The results obtained from the usable surveys are as follows:

Of the one hundred ninety-seven usable surveys received, ninety-five or approximately 48% reported that they currently use dump trucks on their work sites. However, three of these firms reported that they did not have any employees in 2003 and, therefore, are exempt from the rule. Of the ninety-two remaining firms, ten or approximately 11% reported that all of their dump trucks were equipped with a rear view camera that eliminates blind spots and were, therefore, not subject the observer requirement. The remaining eighty-two firms were considered subject to the rule and results taken from their responses were used to value compliance costs for small business and the top 10% of large businesses. Of the eighty-two firms considered subject to the rule, nine are classified as large business (fifty-one or more employees) and seventy-three are classified as small business (fifty or fewer employees).

The largest 10% of large businesses reported approximately three hundred forty employees and an expected increase in hours worked of 2,100 per year. Using an assumed wage of \$29.00, this leads to a per employee cost of approximately \$179 for large business.

The seventy-three small businesses that were subject to the rule reported a total of six hundred ninety-five employees and a total increase in hours worked of 1,979. Using an assumed wage of \$29.00, this leads to an annual per employee cost of approximately \$82.60 for small business.

CONCLUSION: Since it can be assumed that the distribution of costs given in this analysis are a reasonable approximation of the distribution of industry-wide costs, the department has concluded the following:

(1) That a disproportionate, though minor impact will likely result from the increase in the personal protective equipment standard. This is because the small business cost

is approximately \$6.00, while the top 10% of large businesses reported that they were presently in compliance and, therefore, will not incur any costs as a result of the adoption of the rule.

(2) That the observer requirement for dump trucks will have a proportionately less significant impact on small business than large businesses, because expected costs for small business are \$82.60, or approximately 54% less than those for the top 10% of large businesses.

Given that the survey results do indicate a disproportionate impact with respect to the increase in the personal protective equipment, the department has undertaken the following mitigation steps:

(1) As stated in the introduction, the initial rule was withdrawn for consideration because, in part, it was expected to have a detrimental economic impact on business. This fact alone has delayed the implementation of the rule for two years.

(2) The observer requirement, originally intended to apply to all vehicles with obstructed views to the rear, has been scaled down and is now limited to dump trucks only. This has significantly diminished the impact on all affected businesses.

(3) The effective date for the rule has been delayed ninety days from the date of adoption, which will give firms an opportunity to adapt to the requirements over time.

¹ The RFA defines "small business" as any business entity, including a sole proprietorship, corporation, partnership or other legal entity, that is owned and operated independently from all other businesses, and that has fifty or fewer employees. In this analysis, the number of "employees" is calculated by using full-time equivalents, of two thousand worker hours annually as the best indicator of the number of employees.

² These classifications represent those industry sectors that L&I staff believe are most likely to be affected by the proposed rule, and should not be considered an all inclusive list of industries required to comply with the rule.

³ This value is an average price taken from a sample of market prices for garments meeting the minimum requirements.

⁴ This value does not account for inflation.

A copy of the statement may be obtained by contacting Trista Zugel, Economic Analyst, Department of Labor and Industries, Legislative and Governmental Affairs, P.O. Box 44001, Olympia, WA 98504, phone (360) 902-6805, fax (360) 902-4202, e-mail zugy235@lni.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Trista Zugel, Economic Analyst, Department of Labor and Industries, Legislative and Governmental Affairs, P.O. Box 44001, Olympia, WA 98504, phone (360) 902-6805, fax (360) 902-4202, e-mail zugy235@lni.wa.gov.

July 6, 2004

Paul Trause

Director

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-165 Lighting and illumination. ((+))
~~Lighting which is adjusted to provide a margin of safety in production and inspection tasks shall be provided and maintained. The minimum level of task lighting in all indoor work~~

places shall be an average of ten foot candles measured thirty inches above the floor. MSHA approved cap lights are acceptable for use in tunnel headings.

(2) Whenever general lighting of an entire area is not provided, illumination sufficient to provide visibility of potentially hazardous objects and emergency control equipment shall be supplied. The minimum level of nontask lighting in all indoor work places shall be an average of three foot candles measured thirty inches above the floor.

(3) Diffusion and distribution of artificial and natural light. Artificial light sources shall be installed with regard to mounting height, spacing and reflectors or other suitable accessories so as to secure a reasonably uniform distribution of illumination and to avoid glare and sharply defined shadows which could temporarily reduce a person's ability to see clearly.

Note: This section establishes minimal levels of illumination for safety purposes only. Guidelines pertaining to optimal levels of lighting and illumination may be found in Practice for Industrial Lighting ANSI/IES RP7-1979.

(4) The minimum levels specified in subsections (1) and (2) of this section represent averages with the lowest level in an area to be no less than fifty percent of the indicated value.) For lighting and illumination requirements, see WAC 296-800-210, Lighting.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-155-200 General requirements for personal protective equipment (PPE). (1) ((Application:

(a) Protective equipment, including personal protective equipment for eyes, face, head, hearing, and extremities, protective clothing, respiratory devices, and protective shields and barriers, shall be used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

(b) Employee owned equipment. Where employees provide their own protective equipment, the employer shall be responsible to assure its adequacy, including proper maintenance and sanitation of such equipment.

(c) Design. All personal protective equipment shall be of safe design and construction for the work to be performed.

(2) Construction personnel shall comply with plant or job safety practices and procedures, peculiar to particular industries and plants, relating to protective equipment and procedures when engaged in construction work in such plants or job sites.

(3) The employer is responsible for requiring the wearing of appropriate personal protective equipment in all operations where there is an exposure to hazardous conditions or where this part indicates a need for using such equipment to reduce the hazards to the employees.

(4) Where there is a danger of contact with moving parts of machinery, or the work process is such that a hazard exists:

(a) The clothing of employees shall fit closely about the body.

(b) Dangling neck wear, bracelets, wristwatches, rings, or similar articles shall not be worn by employees.

(5) Employees, whose duties are performed in areas and under circumstances where they are exposed to the danger of moving vehicles, shall wear work vests of highly visible materials, or equivalent distinguishing apparel.

(6) Employers shall ensure that employees wear no less than a short sleeved shirt, long pants, and shoes. Employees shall wear no less than a short sleeved shirt, long pants, and shoes. Shoes shall meet the requirements of WAC 296-155-212.

Note: For additional personal protective and life saving equipment requirements, refer to WAC 296-800-160.)

Supplying personal protective equipment

(a) Personal protective equipment (PPE) must be used wherever physical contact, absorption, or inhalation of a hazard could cause any injury or impairment to the function of any part of the body.

These hazards include:

- Hazardous processes;
- Environmental hazards;
- Chemical hazards;
- Radiological hazards;

OR

- Mechanical irritants.

Note: PPE includes:

- Protective equipment for eyes, face, head, hearing, and extremities;
- Protective clothing;
- Respiratory devices;

AND

- Protective shields and barriers.

(b) PPE must be maintained in a sanitary and reliable condition.

Reference: For requirements on maintaining specific personal protective equipment (PPE), see the following rules.

- Chapter 296-842 WAC, Respirators;

AND

- Chapter 296-817 WAC, Hearing loss prevention.

(c) If employees provide their own protective equipment, then the employer is responsible to make sure the PPE is:

- Adequate;
- Properly maintained;

AND

- Sanitary.

(d) All personal protective equipment must be of safe design and construction for the work to be performed.

(2) Minimum clothing requirements.

(a) Employers must ensure that employees wear at least:

- A short-sleeved shirt;
- Long pants;

AND

• Shoes that meet the requirements of WAC 296-155-212, Foot protection.

Definition:

A short-sleeved shirt covers the top of the shoulder and has material extending down the arm. If a short-sleeved shirt has a seam at the end of the shoulder, the material must extend down the arm from the seam.

Long pants have legs that extend past the knee when the wearer stands and leaves no exposed skin on the lower leg.

(b) Where there is a danger of contact with moving parts of machinery, or the work process is such that a hazard exists:

- The clothing of employees must fit closely about the body.

- Dangling neck wear, bracelets, wristwatches, rings, or similar articles must not be worn by employees.

Note: For additional related requirements see WAC 296-155-205, Head protection.

(3) The employer must require employees to wear appropriate PPE in all operations where:

- There is an exposure to hazardous conditions;

OR

- WAC 296-155-200, General requirements for personal protective equipment (PPE), indicates a need for using such equipment to reduce the hazards to the employees.

(4) Employees must comply with job safety practices and procedures and PPE requirements that are relevant to the job site.

(5) High visibility garments.

(a) Employers must make sure that employees wear high visibility garments as required in Table 1 and Table 2 below.

Table 1

During Hours of Daylight	
If:	Then:
<ul style="list-style-type: none"> • Employees duties are performed during daylight hours; 	<ul style="list-style-type: none"> • Employers must make sure that, at a minimum, employees wear a high-visibility garment. The high-visibility garment must be:
AND	<ul style="list-style-type: none"> • Fluorescent yellow/green, fluorescent orange/red or fluorescent red in color;
<ul style="list-style-type: none"> • Employees are in areas and under circumstances where their job duties are performed in close proximity to moving vehicles. 	<ul style="list-style-type: none"> • Always worn as an outer garment.

Definition:

For the purpose of this rule, *hours of darkness* means from one half-hour before sunset to one half-hour after sunrise.

Table 2

During Hours of Darkness	
If:	Then:
<ul style="list-style-type: none"> • Employee duties are performed during hours of darkness; 	<ul style="list-style-type: none"> • Employers must make sure that, at a minimum, employees wear, as an outer garment;

During Hours of Darkness	
If:	Then:
<ul style="list-style-type: none"> • AND • Employees are in areas and under circumstances where their job duties are performed in close proximity to moving vehicles. 	<ul style="list-style-type: none"> • A high-visibility safety garment that is designed according to Class 2 specifications in ANSI/ISEA 107-1999, American National Standard for High-Visibility Safety Apparel. <p>Note: A high-visibility garment meets Class 2 specifications if the garment:</p> <ul style="list-style-type: none"> = Has an ANSI "Class 2" label; <p>OR</p> <ul style="list-style-type: none"> = Has at least 775 square inches of background material and 201 square inches of retroreflective material that encircles the torso and is placed to provide 360 degrees visibility around the employee.

Note:

- Fading and soiling may degrade the high-visibility characteristics of the garments.
- ANSI/ISEA 107-1999 is available by:
 - Purchasing copies of ANSI/ISEA 107-1999 by writing:
 - American National Standards Institute
 - 11 West 42nd Street
 - New York, NY 10036
 - OR**
 - Contacting the ANSI website at <http://web.ansi.org/>.
 - OR**
 - Reading a copy of ANSI/ISEA 107-1999 at any Washington state library.

PART E

((SIGNS, SIGNALS, AND BARRICADES)) SIGNALING AND FLAGGERS

AMENDATORY SECTION (Amending WSR 03-06-075, filed 3/4/03, effective 8/1/03)

WAC 296-155-300 Accident prevention signs and tags. (1) General. Signs and symbols required by this section shall be visible at all times when work is being performed, and shall be removed or covered promptly when the hazards no longer exist.

(2) Danger signs.

(a) Danger signs (see Figure E-1) shall be used only where an immediate hazard exists.

(b) Danger signs shall have red as the predominating color for the upper panel; black outline on the borders; and a white lower panel for additional sign wording.

PROPOSED

(3) Caution signs.

(a) Caution signs (see Figure E-2) shall be used only to warn against potential hazards or to caution against unsafe practices.

(b) Caution signs shall have yellow as the predominating color; black upper panel and borders; yellow lettering of "caution" on the black panel; and the lower yellow panel for additional sign wording. Black lettering shall be used for additional wording.

PROPOSED



FIGURE E-1



FIGURE E-2

(4) Exit signs.

(a) Every exit sign shall have the word "exit" in plainly legible letters not less than 6 inches high, with the principal strokes of letters not less than three-fourths-inch wide.

(b) Every exit sign shall be distinctive in color and shall provide contrast with decorations, interior finish, or other signs.

(5) Safety instruction signs. Safety instruction signs, when used, shall be white with green upper panel with white letters to convey the principal message. Any additional wording on the sign shall be black letters on the white background.

(6) Directional signs. Directional signs, other than automotive traffic signs specified in subsection (7) of this section, shall be white with a black panel and a white directional symbol. Any additional wording on the sign shall be black letters on the white background.

(7) Traffic signs.

(a) Construction areas ~~((shall))~~ must be posted with legible traffic signs at points of hazard.

(b) All traffic control signs or devices used for protection of construction workers ~~((shall))~~ must conform to and be set up according to Part VI of the Manual on Uniform Traffic Control Devices (MUTCD), ~~((1988 Edition, Revision 4, 1995, as amended))~~ as currently modified and adopted by the

Washington state department of transportation ~~((M24-01) or the Millennium Edition, December 2000, FHWA)).~~

- Note:
- You may purchase copies of the MUTCD by writing: U.S. Government Printing Office Superintendent of Documents Mail Stop: SSOP Washington D.C. 20402-9328
 - You may ~~((read a copy of the MUTCD at any department of labor and industries (L&I) service location))~~ view and print a copy of the MUTCD at the following website <http://www.wsdot.wa.gov/biz/trafficoperations/mutcd.htm>.

(8) Accident prevention tags.

(a) Accident prevention tags shall be used as a temporary means of warning employees of an existing hazard, such as defective tools, equipment, etc. They shall not be used in place of, or as a substitute for, accident prevention signs.

(b) Specifications for accident prevention tags similar to those in Table E-1 shall apply.

(i) Additional rules. American National Standards Institute (ANSI) Z35.1-1972, Specifications for Accident Prevention signs, and Z35.2-1968, Specifications for Accident Prevention Tags, contain rules which are additional to the rules prescribed in this section. The employer shall comply with ANSI Z35.1-1972 and Z35.2-1968 with respect to rules not specifically prescribed in this part.



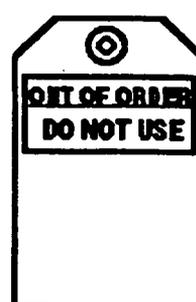
White tag—
white letters
on red square



White tag—
white letters
on red oval
with a black square



Yellow tag—
yellow letters
on a black
background



White tag—
white letters
on black
background

TABLE E-1

White tag- White letters on red square	White tag- White letters on red oval with a black square	Yellow tag- Yellow letters on a black background	White tag- White letters on black background
Basic Stock (Background)	Safety Colors (Ink)	Copy Specification (Letters)	
White	Red	Do Not Operate	
White	Black and Red	Danger	
Yellow	Black	Caution	
White	Black	Out of Order-Do Not Use	

AMENDATORY SECTION (Amending WSR 03-06-075, filed 3/4/03, effective 8/1/03)

WAC 296-155-305 Signaling and flaggers. (1) General requirements for signaling and flaggers.

(a) ~~((Except as otherwise required in these rules, traffic control devices, signs and barricades must be set up and used))~~ When flaggers are used, employers must first apply the requirements in this section. Then you must set up and use temporary traffic control according to the guidelines and recommendations in Part VI of the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD), ~~((1988 Edition Revision 4, 1995, or the Millennium Edition))~~.

(b) Job site workers with specific traffic control responsibilities must be trained in traffic control techniques, device usage, and placement.

Definition:

Flagger means a person who provides temporary traffic control.

Manual on Uniform Traffic Control Devices (MUTCD) means the version currently modified and adopted by the Washington state department of transportation.

Note:

• You may purchase copies of the MUTCD by writing:

U.S. Government Printing Office
Superintendent of Documents

Mail Stop: SSOP,
Washington D.C. 20402-9328

• You may ~~((read a copy of the MUTCD at any department of labor and industries (L&I) service location))~~ view and print a copy of the MUTCD at the following website <http://www.wsdot.wa.gov/biz/trafficoperations/mutcd.htm>.

(2) When to use flaggers.

(a) ~~((Flaggers or other appropriate traffic controls must be used when signs, signals, and barricades do not provide necessary protection from traffic at operations on or adjacent to a highway or street.~~

~~(b) Flaggers are to be used only when other reasonable traffic control methods will not adequately control traffic in the work zone.~~

(3) ~~Flagger signaling directions must conform to the guidelines and recommendations of MUTCD, 1988 Edition-Revision 4, Part VI, 1995, as amended by the Washington state department of transportation (WSDOT) pamphlet, "Washington State Modifications to the MUTCD." (M 24-01)~~

(4)(a) ~~Flagger hand signaling must be by sign paddles or lights approved by WSDOT. During emergency situations, red flags may be used to draw a driver's attention to particularly hazardous conditions. In nonemergency situations, a red flag may be held in a flagger's free hand to supplement the use of a sign paddle or lights.~~

~~(b) When sign paddles are used, they must comply with the requirements of MUTCD, 1988 Edition Revision 4, Part VI, 1995. Specifically, sign paddles:~~

- ~~• Must be at least 18 inches in diameter;~~
- ~~• Printed with letters at least 6 inches high;~~
- ~~• The "stop" side of the paddle must have a red background with white lettering; and~~
- ~~• The "slow" side of the paddle must have an orange background with black lettering.~~

~~(c) When hand signaling is used during periods of darkness, sign paddles must be retroreflective or illuminated in the same manner as signs.~~

~~(5)(a) While flagging during daylight hours, a flagger must, at a minimum, wear:~~

- ~~• A high visibility safety garment designed according to Class 2 specifications in ANSI/ISEA 107-1999, American~~

PROPOSED

National Standard for High-Visibility Safety Apparel. Specifically, a garment containing at least 775 square inches of background material and 201 square inches of retroreflective material that encircles the torso and is placed to provide 360 degrees visibility around the flagger. The acceptable high-visibility colors are fluorescent yellow-green, fluorescent orange-red or fluorescent red; and

▲ A high-visibility hard hat. The acceptable high-visibility colors are white, yellow, yellow-green, orange or red.

▲ When snow or fog limit visibility, a flagger must wear pants of any high-visibility color other than white.

(b) While flagging during hours of darkness, a flagger must at least wear:

▲ A high-visibility safety garment designed according to Class 2 specifications in ANSI/ISEA 107-1999 over white coveralls, or other coveralls or trousers that have retroreflective banding on the legs designed according to ANSI/ISEA 107-1999 standards; and

▲ A high-visibility hard hat that is marked with at least 12 square inches of retroreflective material applied to provide 360 degrees of visibility.

▲ For the purpose of this rule, "hours of darkness" means one-half hour before sunset and one-half hour after sunrise.

▲ When snow or fog limit visibility, pants, coveralls, or rain gear in a highly-visible color with retroreflective banding on the legs designed according to ANSI/ISEA 107-1999 must be worn.

((Note: High-visibility safety garments made of mesh material may be worn by flaggers if they meet the chromaticity requirements of ANSI/ISEA 107-1999, American National Standard for High-Visibility Safety Apparel.

Note:

▲ You may purchase copies of ANSI/ISEA 107-1999 by writing:

American National Standards Institute
11 West 42nd Street
New York, NY 10036

or

Contacting the ANSI web site at:
<http://web.ansi.org/>

▲ You may read a copy of ANSI/ISEA 107-1999 at any Washington state library.

(6)(a) Each flagger must be trained every three years.

(b) Flagger training must be based upon the Manual on Uniform Traffic Control Devices—1988 Edition Revision 4, Part VI, 1995 as amended by the Washington state department of transportation pamphlet, "Washington State Modifications to the MUTCD." (M 24-01)

(c) Personnel that have not completed a flagger training course may be assigned duties as flaggers only during emergencies when a sudden, generally unexpected, set of circumstances demands immediate attention. Such emergency assignments are temporary and last only until a certified flagger can be put into the position. For the purpose of this rule, "emergency" means an unforeseen occurrence endangering life, limb, or property.

(7)(a) Each flagger must have in their possession either a valid Washington traffic control flagger card or a valid flag-

ger card from a state, such as Oregon, Idaho or Montana, having flagger training reciprocity with Washington.

(b) The flagger card must show the following:

▲ Verification that the flagger training prescribed in subsection (6) of this section is completed;

▲ Date the flagger received their flagger training;

▲ Name of the instructor providing the flagger training;

▲ Name of the state that issued the flagger card;

▲ The card's expiration date; and

▲ Flagger's picture or a statement that says "valid with photo ID."

(8) When it is not possible to position work zone flaggers so they are not exposed to traffic or equipment approaching them from behind, the employer, responsible contractor and/or project owner must develop and use a method to ensure that flaggers have adequate warning of such traffic and equipment approaching from behind the flagger.

Note: The following are some nonmandatory examples of methods that may be used to adequately warn flaggers:

▲ Mount a mirror on the flagger's hard hat.

▲ Use a motion detector with an audible warning.

▲ Use a spotter.

▲ Use "jersey" barriers.

The department recognizes the importance of adequately trained flaggers and supports industry efforts to improve the quality of flagger training. However, training alone is not sufficient to comply with the statutory requirement of revising flagger safety standards to improve options available that ensure flagger safety and that flaggers have adequate visual warning of objects approaching from behind them. Likewise, the department believes that standard backup alarms, which are already required on construction equipment, do not meet the intent of the legislature on this issue.

(9)(a) The employer, responsible contractor and/or project owner must conduct an orientation that familiarizes the flagger with the job site each time the flagger is assigned to a new project or when job site conditions change significantly. The orientation must include, but is not limited to:

▲ The flagger's role and location on the job site;

▲ Motor vehicle and equipment in operation at the site;

▲ Job site traffic patterns;

▲ Communications and signals to be used between flaggers and equipment operators;

▲ On-foot escape route; and

▲ Other hazards specific to the job site.

(b) When flaggers are used on a job that will last more than one day, the employer, responsible contractor and/or project owner must keep on site, a current site specific traffic control plan. The purpose of this plan is to help move traffic through or around the construction zone in a way that protects the safety of the traveling public, pedestrians and workers. The plan must include, but is not limited to, such items as the following when they are appropriate:

▲ Sign use and placement;

▲ Application and removal of pavement markings;

▲ Construction;

▲ Scheduling;

▲ Methods and devices for delineation and channelization;

▲ Placement and maintenance of devices;

- Placement of flaggers;
- Roadway lighting;
- Traffic regulations; and
- Surveillance and inspection.

(10) For all flagging operations a three (3) sign advance warning sequence is required on all roadways with a speed limit below 45 mph. A four (4) sign advance warning sequence is required on all roadways with a 45 mph or higher speed limit.

Note: The following table contains required spacing for advance warning sign placement:

Road Type	Distances		Advance-Warning	Signs
	A	B		
Urban low-speed*	200 ft.	200 ft.	200 ft.	N/A
Urban high-speed*	350 ft.	350 ft.	350 ft.	350 ft.
Rural	500 ft.	500 ft.	500 ft.	500 ft.
Expressway/Freeway	1,000 ft.	1,600 ft.	2,600 ft.	2,600 ft.

((*) Speed category to be determined by Washington state department of transportation in cooperation with local jurisdictions.

(11) To protect flaggers, employers, responsible contractors and/or project owners must ensure that:

(a) Flagger workstations are illuminated during hours of darkness by floodlights.

• In no case must floodlighting be permitted to create a disabling glare for drivers. The adequacy of floodlight placement and elimination of potential glare can best be determined by driving through and observing the floodlighted area from each direction on the main roadway after initial floodlight setup.

• Emergency situations are exempt from these illumination requirements. For the purpose of this rule, "emergency" means an unforeseen occurrence endangering life, limb, or property.

(b) Warning signs reflect the actual condition of the work zone. When not in use, warning signs must either be taken down or covered.

(c) Flaggers are not assigned other duties while engaged in flagging activities.

(d) Flaggers do not use devices (for example, cell phones, pagers, radio headsets, etc.) that may distract the vision, hearing, or attention of the flagger. Devices such as two-way radios used for communications between flaggers to direct traffic or ensure flagger safety are acceptable.

(e) Flaggers receive appropriate breaks from flagging so they can remain attentive and alert. For the purpose of this rule, "appropriate break" means a rest period of at least 10 minutes, on the employer's time, for each 4 hours of working time:

• Rest periods must be scheduled as near as possible to the midpoint of the work period.

• A flagger must not be allowed to work more than three hours without a rest period.

• Scheduled rest periods are not required where the nature of the work allows a flagger to take intermittent rest periods equivalent to 10 minutes for each 4 hours worked.)

Flaggers are to be used only when other reasonable traffic control methods will not adequately control traffic in the work zone.

(b) If signs, signals, and barricades do not provide necessary protection from traffic at work zones and construction sites on or adjacent to a highway or street, then you must use flaggers or other appropriate traffic controls.

(3) Flagger signaling.

(a) Flagger signaling must be with sign paddles approved by WSDOT and conform to guidelines and recommendations of MUTCD.

(b) Sign paddles must comply with the requirements of the MUTCD.

(c) When flagging is done during periods of darkness, sign paddles must be retroreflective or illuminated in the same manner as signs.

(d) During emergency situations, red flags, meeting the specifications of the MUTCD, may be used to draw a driver's attention to particularly hazardous conditions. In nonemergency situations, a red flag may be held in a flagger's free hand to supplement the use of a sign paddle.

(4) Adequate warning of approaching vehicles. Employers must:

• Position work zone flaggers so they are not exposed to traffic or equipment approaching them from behind.

– If this is not possible, then the employer, responsible contractor, and/or project owner must develop and use a method to ensure that flaggers have adequate warning of traffic and equipment approaching from behind.

- Note:
- The following are some optional examples of methods that may be used to adequately warn flaggers:
 - Mount a mirror on the flagger's hard hat.
 - Use a motion detector with an audible warning.
 - Use an observer.
 - Use "jersey" barriers.

• The department recognizes the importance of adequately trained flaggers and supports industry efforts to improve the quality of flagger training. However, training alone is not sufficient to comply with the statutory requirement of revising flagger safety standards to improve options available that ensure flagger safety and that flaggers have adequate visual warning of objects approaching from behind them.

(5) High-visibility garments for flaggers.

(a) While flagging during daylight hours, a flagger must at least wear, as an outer garment:

• A high-visibility safety garment designed according to Class 2 specifications in ANSI/ISEA 107-1999, American National Standard for High-Visibility Safety Apparel.

– Consisting of at least 775 square inches of background material that are fluorescent yellow-green, fluorescent orange-red or fluorescent red in color;

AND

– 201 square inches of retroreflective material that encircles the torso and is placed to provide 360 degrees visibility around the flagger.

• A high visibility hard hat that is white, yellow, yellow-green, orange or red in color.

- Note:
- A high-visibility garment meets Class 2 specifications if the garment:
 - Meets the requirements above;

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OR

- Has an ANSI "Class 2" label.

Definition:

For the purpose of this rule, hours of darkness means one-half hour before sunset to one-half hour after sunrise.

(b) While flagging during hours of darkness, a flagger must at least wear, as an outer garment:

- A high-visibility safety garment designed according to Class 2 specifications in ANSI/ISEA 107-1999.
 - Consisting of at least 775 square inches of background material that are fluorescent yellow-green, fluorescent orange-red or fluorescent red in color;

AND

– 201 square inches of retroreflective material that encircles the torso and is placed to provide 360 degrees visibility around the flagger.

• White coveralls, or other coveralls or trousers that have retroreflective banding on the legs designed according to ANSI/ISEA 107-1999 standards.

• When snow or fog limit visibility, pants, coveralls, or rain gear, meeting these additional requirements must be worn:

- In a highly visible color;
- With retroreflective banding on the legs;
- Designed according to ANSI/ISEA 107-1999.
- A high-visibility hard hat:
 - Marked with at least 12 square inches of retroreflective material applied to provide 360 degrees of visibility.

Note:

- ANSI/ISEA 107-1999 is available by:
- Purchasing copies of ANSI/ISEA 107-1999 by writing:
 - American National Standards Institute
 - 11 West 42nd Street
 - New York, NY 10036
 - OR
 - Contacting the ANSI website at <http://web.ansi.org/>.
 - OR
 - Reading a copy of ANSI/ISEA 107-1999 at any Washington state library.

(6) Flagger training. Employers must make sure that:

(a) Each flagger has in their possession:

- A valid Washington traffic control flagger card; or
- A valid flagger card from a state such as:

- Oregon;
- Idaho;
- Montana;

OR

– Other states having a flagger training reciprocity agreement with Washington.

(b) The flagger card shows the following:

- Verification that the flagger training required is completed;
- Date the flagger received their flagger training;
- Name of the instructor providing the flagger training;
- Name of the state that issued the flagger card;
- The card's expiration date, not to exceed three years from the date of issuance;

AND

• The flagger's picture or a statement that says "valid with photo ID."

(c) Flagger training is based upon the Manual on Uniform Traffic Control Devices (MUTCD).

Exemption:

Personnel that have not completed a flagger-training course may be assigned duties as flaggers only during emergencies. Emergency assignments are temporary and last only until a certified flagger can be put into the position.

Definition:

For the purpose of this rule, emergency means an unforeseen occurrence endangering life, limb, or property.

(7) Flagger orientation and traffic control plan.

(a) The employer, responsible contractor or project owner must conduct an orientation that familiarizes the flagger with the job site. This requirement applies each time the flagger is assigned to a new project or when job site conditions change significantly.

The orientation must include, but is not limited to:

- The flagger's role and location on the job site;
- Motor vehicle and equipment in operation at the site;
- Job site traffic patterns;
- Communications and signals to be used between flaggers and equipment operators;
- On-foot escape route;

AND

• Other hazards specific to the job site.

(b) If flaggers are used on a job that will last more than one day, then the employer, responsible contractor and/or project owner must keep on-site, a current site specific traffic control plan. The purpose of this plan is to help move traffic through or around the construction zone in a way that protects the safety of the traveling public, pedestrians and workers.

The plan must include, but is not limited to, the following items when they are appropriate:

- Sign use and placement;
- Application and removal of pavement markings;
- Construction;
- Scheduling;
- Methods and devices for delineation and channelization;

• Placement and maintenance of devices;

• Placement of flaggers;

• Roadway lighting;

• Traffic regulations;

AND

• Surveillance and inspection.

(8) Advance warning signs.

(a) Employers must provide the following on all flagging operations:

• A three sign advance warning sequence on all roadways with a speed limit below 45 mph.

• A four sign advance warning sequence on all roadways with a 45 mph or higher speed limit.

(b) Warning signs must reflect the actual condition of the work zone. When not in use, warning signs must either be taken down or covered.

(c) Employers must make sure to follow Table 1 for spacing of advance warning sign placement.

Table 1. Flagger Station Location

Road Type	Speed	Distances Between Advance Warning Signs*			
		A**	B**	C**	D**
Freeways & Expressways	70	1,500 ft.+/- or per the MUTCD.	1,500 ft.+/- or per the MUTCD.	1,500 ft.+/- or per the MUTCD.	1,500 ft.+/- or per the MUTCD.
	55				
Rural Highways	65	1,000 ft.+/-	1,000 ft.+/-	1,000 ft.+/-	1,000 ft.+/-
	60				
Rural Roads	55	500 ft.+/-	500 ft.+/-	500 ft.+/-	500 ft.+/-
	45				
Rural Roads and Urban Arterials	40	350 ft.+/-	350 ft.+/-	350 ft.+/-	N/A
	35				
Rural Roads, Urban Streets, Residential Business Districts	30	200 ft.***	200 ft.***	200 ft.***	N/A
	25				
Urban Streets	25	100 ft.***	100 ft.***	100 ft.***	N/A
	or less				

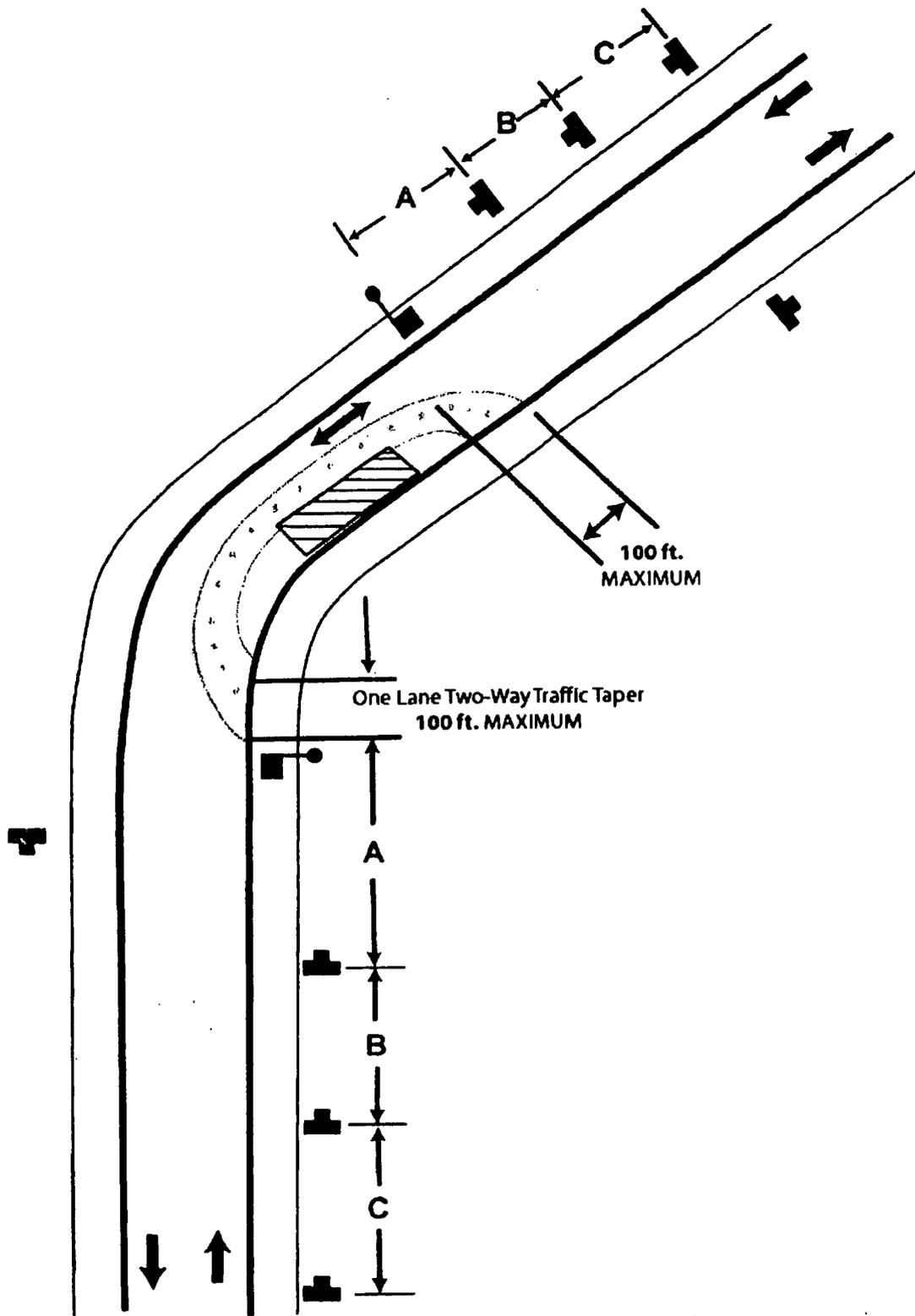
*All spacing may be adjusted to accommodate interchange ramps, at-grade intersections, and driveways.

**This refers to the distance between advance warning signs. See Figure 1, Typical Lane Closure on Two-Lane Road. This situation is typical for roadways with speed limits less than 45 mph.

***This spacing may be reduced in urban areas to fit roadway conditions.

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Exemption: In a mobile flagging operation, as defined by the Manual on Uniform Traffic Control Devices (MUTCD) when the flagger is moving with the operation, the "flagger ahead (symbol or text)" sign must be:

- Within 1,500 feet of the flagger;

AND
 • The flagger station must be seen from the sign.

If terrain does not allow a motorist to see the flagger from the "flagger ahead" sign, the distance between the flagger and the sign must be shortened to allow visual contact.

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(9) Providing a safe job site for flaggers. Employers, responsible contractors and/or project owners must make sure that:

(a) Flagger stations are located far enough in advance of the work space so that the approaching road users will have sufficient distance to stop before entering the work space. Follow Table 2 for the distance of the flagger workstation in advance of the work space.

Table 2. Distance of Flagger Station on Advance of the Work Space

<u>Speed* (mph)</u>	<u>Distance (ft)</u>
<u>20</u>	<u>35</u>
<u>25</u>	<u>55</u>
<u>30</u>	<u>85</u>
<u>35</u>	<u>120</u>
<u>40</u>	<u>170</u>
<u>45</u>	<u>220</u>
<u>50</u>	<u>280</u>
<u>55</u>	<u>335</u>
<u>60</u>	<u>415</u>
<u>65</u>	<u>485</u>

*Posted speed, off-peak 85th-percentile speed prior to work starting or the anticipated operating speed.

(b) Flaggers stand either on the shoulder adjacent to the road user being controlled or in the closed lane prior to stopping road users. A flagger must only stand in the lane being used by moving road users after road users have stopped.

Definition:

Road user means a vehicle operator, bicyclist, or pedestrian within a public roadway, including workers in temporary traffic control zones.

(c) Flagger workstations are illuminated during hours of darkness by floodlights that do not create glare that poses a hazard for drivers.

Note: To identify potential glare, observe the lighted area from various directions and angles on the main roadway after initial floodlight setup.

Exemption: Emergency situations are exempt from these illumination requirements. For the purpose of this rule, emergency means an unforeseen occurrence endangering life, limb, or property.

(d) Flaggers are not assigned other duties while engaged in flagging activities.

(e) Flaggers do not use devices that may distract the flagger's vision, hearing, or attention.

- Examples of these devices include cell phones, pagers, radios, and headphones.

- Devices such as two-way radios used for communications between flaggers to direct traffic or ensure flagger safety are acceptable.

(f) Flaggers receive a rest period of at least ten minutes, on the employer's time, for each four hours of working time.

- Rest periods must be scheduled as near as possible to the midpoint of the work period.

- A flagger must not be allowed to work more than three hours without a rest period.

Exemption: Scheduled rest periods are not required where the nature of the work allows a flagger to take intermittent rest periods equivalent to ten minutes for each four hours worked.

AMENDATORY SECTION (Amending WSR 03-06-075, filed 3/4/03, effective 8/1/03)

WAC 296-155-310 Barricades. Employers must make sure that barricades used for the protection of employees ((shall conform to the portions)) meet the requirements of Part VI of the Manual on Uniform Traffic Control Devices (MUTCD)((, 1988 Edition, Revision 4, 1995, as amended)) as currently modified and adopted by the Washington state department of transportation((, (M24 01) or the Millennium Edition, December 2000, FHWA)).

AMENDATORY SECTION (Amending WSR 03-06-075, filed 3/4/03, effective 8/1/03)

WAC 296-155-315 Definitions applicable to this part.

(1) "Barricade" means an obstruction to deter the passage of persons or vehicles.

(2) "Signs" are the warnings of hazard, temporarily or permanently affixed or placed, at locations where hazards exist.

(3) "Signals" are moving signs, provided by workers, such as flaggers, or by devices, such as flashing lights, to warn of possible or existing hazards.

((4) "Tags" are temporary signs, usually attached to a piece of equipment or part of a structure, to warn of existing or immediate hazards.))

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-610 Motor vehicles on construction sites. (1) ((Coverage:)) Scope. Motor vehicles ((as)) covered by this ((part)) section include any vehicles that operate on a construction site. The requirements of this section do not apply to the equipment ((for which rules are prescribed in)) regulated by WAC 296-155-615, Material handling equipment.

(2) General requirements for motor vehicles.

(a) ((All vehicles shall have a service brake system, an emergency brake system, and a parking brake system. These systems may use common components, and shall be maintained in operable condition.)) Braking systems.

• All vehicles must have:

- A service brake system;

- An emergency brake system;

AND

- A parking brake system.

• These systems must be maintained in operable condition.

tion.

• These systems may use common components.

(b) Before leaving a motor vehicle unattended:

(i) The motor ((shall)) must be stopped.

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(ii) The parking brake must be engaged and the wheels turned into curb or berm when parked on an incline.

(iii) ~~((When))~~ If parking on an incline and there is no curb or berm, the wheels ((shall)) must be chocked or otherwise secured.

~~(c)((i) Whenever visibility conditions warrant additional light, all vehicles, or combinations of vehicles, in use shall be equipped with at least two headlights and two tail lights in operable condition.~~

~~((ii))~~ Lighting systems. All vehicles, or combination of vehicles, ~~((shall))~~ must have brake lights in operable condition, regardless of light conditions.

• Employers must meet the requirements in Table 1 below.

Table 1

<u>If:</u>	<u>Then:</u>
<u>Visibility conditions warrant additional light.</u>	<u>All vehicles, or combinations of vehicles, in use must be equipped with:</u> <ul style="list-style-type: none"> • <u>At least two headlights in operable condition;</u> AND • <u>At least two taillights in operable condition.</u>

~~(d)~~ All vehicles ((shall)) must be equipped with an ((adequate)) operable audible warning device (horn) at the operator's station ((and in an operable condition)).

~~(e) ((No))~~ Operating vehicles, other than passenger cars and pickups, with an obstructed view to the rear. Employers ((shall allow)) must prohibit the use of any motor vehicle equipment ((having)) that has an obstructed view to the rear unless the vehicle meets one of the following:

~~((i) Vehicles other than passenger cars and pickups shall have))~~ • Has an operable automatic reverse signal alarm audible above the surrounding noise level and audible no less than fifteen feet from the rear of the vehicle;

~~OR((:~~

~~((ii) The vehicle))~~ • Is backed up ((only)) when an observer signals that it is safe to do so.

~~((f) All vehicles with cabs shall be equipped with windshields, powered wipers, and rear view mirrors. Cracked and broken glass shall be replaced. Vehicles operating in areas or under conditions that cause fogging or frosting of the windshields shall be equipped with operable defogging or defrosting devices.~~

~~(g) All haulage vehicles, whose pay load is loaded by means of cranes, power shovels, loaders, or similar equipment, shall have a cab shield and/or canopy adequate to protect the operator from shifting or falling materials.~~

~~(h) Tools and material shall be secured to prevent movement when transported in the same compartment with employees.~~

~~(i) Vehicles used to transport employees shall have seats firmly secured and adequate for the number of employees to be carried.~~

~~(j) Seat belts and anchorages meeting the requirements of 49 CFR Part 571 (Department of Transportation, Federal Motor Vehicle Safety Standards) shall be installed in all motor vehicles.~~

~~(k) Trucks with dump bodies or raiseable platforms, beds, or boxes shall be equipped with positive means of support, permanently attached, and capable of being locked in position to prevent accidental lowering of the body while maintenance or inspection work is being done.~~

~~(l) Operating levers, controlling hoisting or dumping devices on haulage bodies, shall be equipped with a latch or other device which will prevent accidental starting or tripping of the mechanism.~~

~~(m) Trip handles for tailgates of dump trucks shall be so arranged that, in dumping, the operator will be in the clear.~~

~~(n) All rubber tired motor vehicle equipment manufactured on or after May 1, 1972, shall be equipped with fenders. All rubber tired motor vehicle equipment manufactured before May 1, 1972, shall be equipped with fenders not later than October 1, 1974. Mud flaps may be used in lieu of fenders whenever motor vehicle equipment is not designed for fenders.~~

~~(o) All vehicles in use shall be checked at the beginning of each shift to assure that the following parts, equipment, and accessories are in safe operating condition and free of apparent damage that could cause failure while in use: Service brakes, including trailer brake connections; parking system (hand brake); emergency stopping system (brakes); tires; horn; steering mechanism; coupling devices; seat belts; operating controls; and safety devices. All defects shall be corrected before the vehicle is placed in service. These requirements also apply to equipment such as lights, reflectors, windshield wipers, defrosters, fire extinguishers, steps and handholds for vehicle access, etc., where such equipment is necessary.)~~

Reference: For requirements on operating dump trucks in reverse, see (f) of this subsection, Operating dump trucks in reverse.

Note: • If the surrounding noise level is so loud that reverse signal alarms are not effective, then an observer must be used.
• An observer can be any individual at the construction site, except a person performing the duties of a flagger. The observer must:

- Be in the direct line-of-sight or able to communicate with the driver.

- Be able to see the entire backing zone.

- Continue to provide direction to the driver until:

■ The driver reaches the destination and stops;

OR

■ There are no longer employees in the backing zone and it is reasonable to expect that no employee(s) will enter the backing zone.

(f) Operating dump trucks in reverse.

(i) You must make sure the dump truck has an operable automatic reverse signal alarm:

• Audible above the surrounding noise level;

AND

• Audible no less than fifteen feet from the rear of the vehicle.

(ii) Before backing a dump truck the driver must determine that no one is currently in the backing zone and it is rea-

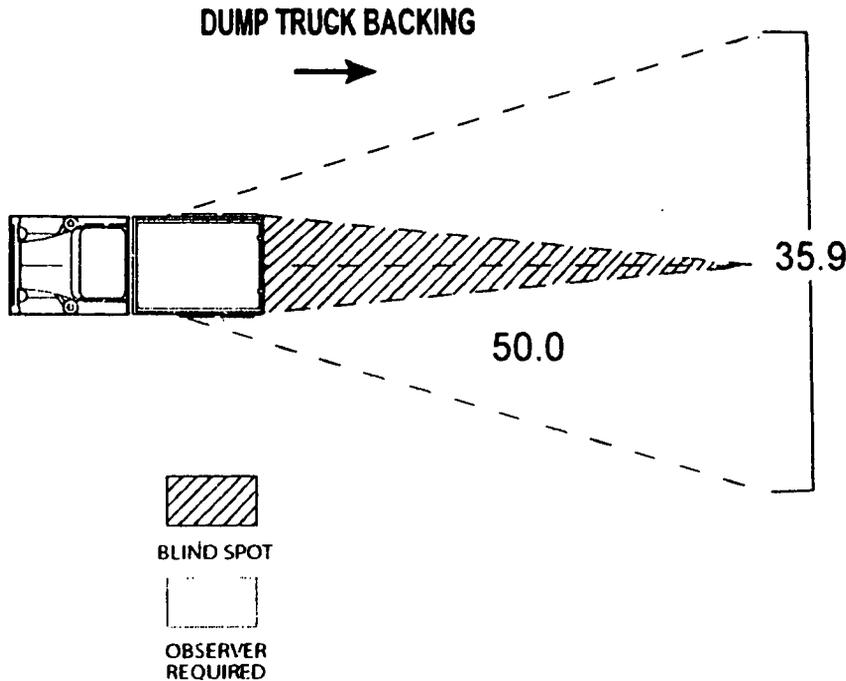
sonable to expect that no employee(s) will enter the backing zone while operating the dump truck in reverse.

If employee(s) are in the backing zone or it is reasonable to expect that an employee(s) will enter the backing zone, you must make sure the truck is backed up only when:

- An observer signals that it is safe to back;

OR

- An operable mechanical device that provides the driver a full view behind the dump truck is used, such as a video camera.



- Exemption:**
- Employees are considered protected when they are on the opposite side of a fixed barrier such as:
 - A jersey barrier;
 - Heavy equipment (such as a paving machine);
- OR
- A six-inch concrete curb.

Note: The term "dump trucks" includes both belly and rear dump trucks with a minimum payload of four yards.

(g) Windshields.

- All vehicles with cabs must be equipped with:
 - Windshields;
 - Powered wipers; and
 - Rear view mirrors.

- Cracked and broken glass must be replaced.
- Vehicles operating in areas or under conditions that cause fogging or frosting of the windshields must be equipped with operable defogging or defrosting devices.

(h) Haulage vehicles. Employers must meet the requirement in Table 2 below.

Table 2

If:	Then:
Any haulage vehicles payload is filled by:	You must have a cab shield and/or canopy adequate to protect the operator from shifting or falling materials.

If:	Then:
<ul style="list-style-type: none"> • Cranes; • Power shovels; • Loaders; OR <ul style="list-style-type: none"> • Similar equipment. 	

(i) Securing material and employees.

• Tools and material must be secured to prevent movement when transported in the same compartment as employees.

• Vehicles used to transport employees must have seats firmly secured and adequate for the number of employees to be carried.

• Seat belts and anchorages meeting the requirements of 49 CFR Part 571 (Department of Transportation, Federal Motor Vehicle Safety Standards) must be installed in all motor vehicles and used by all occupants of the vehicle.

(j) Trucks with dump bodies.

• Trucks with dump bodies or raisable platforms, beds, or boxes must be equipped with positive means of support, permanently attached. This positive means of support must be capable of being locked in position to prevent accidental lowering of the body while maintenance or inspection work is being done.

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• Operating levers, controlling hoisting or dumping devices on haulage bodies, must be equipped with a latch or other device, such as a detent switch, which will prevent accidental starting or tripping of the mechanism.

• Trip handles for tailgates of dump trucks must be so arranged that, in dumping, the operator will be in the clear.

(k) Fenders on motor vehicle equipment.

• All rubber-tired motor vehicle equipment must be equipped with fenders.

• Mud flaps may be used in lieu of fenders whenever motor vehicle equipment is not designed for fenders.

(l) Vehicle safety inspections.

• All vehicles in use must be checked at the beginning of each shift to make sure that the following parts, equipment, and accessories are in safe operating condition and free of apparent damage that could cause failure while in use:

- Service brakes (including trailer brake connections);

- Parking system (hand brake);

- Emergency stopping system (brakes);

- Tires;

- Horn;

- Steering mechanism;

- Coupling devices;

- Seat belts;

- Operating controls;

AND

- Safety devices.

• These requirements also apply where such equipment is necessary.

- Lights;

- Reflectors;

- Windshield wipers;

- Defrosters;

- Fire extinguishers;

- Steps and handholds for vehicle access;

AND

- Any other necessary equipment.

• All defects must be corrected before the vehicle is placed in service.

AMENDATORY SECTION (Amending WSR 00-01-176, filed 12/21/99, effective 3/1/00)

WAC 296-155-615 Material handling equipment. (1)
((Earthmoving equipment; general.

~~(a) These rules apply to the following types of earthmoving equipment: Scrapers, loaders, crawler or wheel tractors, bulldozers, off-highway trucks, graders, agricultural and industrial tractors, and similar equipment. The promulgation of specific rules for compactors and rubber-tired "skid-steer" equipment is reserved pending consideration of standards currently being developed.~~

~~(b) Seat belts.~~

~~(i) Seat belts shall be provided on all equipment covered by this section and shall meet the requirements of the Society of Automotive Engineers, J386-1969, Seat Belts for Construction Equipment. Seat belts for agricultural and light industrial tractors shall meet the seat belt requirements of Society of Automotive Engineers J333a-1970, Operator Protection for Agricultural and Light Industrial Tractors.~~

~~(ii) Seat belts need not be provided for equipment which is designed only for standup operation.~~

~~(iii) Seat belts shall not be provided for equipment which does not have rollover protective structure (ROPS) or adequate canopy protection.~~

~~(e) Access roadways and grades.~~

~~(i) No employer shall move or cause to be moved construction equipment or vehicles upon any access roadway or grade unless the access roadway or grade is constructed and maintained to accommodate safely the movement of the equipment and vehicles involved.~~

~~(ii) Every emergency access ramp and berm used by an employer shall be constructed to restrain and control runaway vehicles.~~

~~(d) Brakes. All earthmoving equipment mentioned in WAC 296-155-615 (1)(a) shall have a service braking system capable of stopping and holding the equipment fully loaded, as specified in Society of Automotive Engineers SAE J237, Loader Dozer 1971, J236, Graders 1971, and J319b, Scrapers 1971. Brake systems for self-propelled rubber-tired off-highway equipment manufactured after January 1, 1972 shall meet the applicable minimum performance criteria set forth in the following Society of Automotive Engineers Recommended Practices:~~

Self-propelled	_____	SAE J319b-1971
scrapers		
Self-propelled	_____	SAE J236-1971
graders		
Trucks and	_____	SAE J166-1971
wagons		
Front-end loaders	_____	SAE J237-1971
and dozer		

~~(e) Fenders. Pneumatic-tired earthmoving haulage equipment (trucks, scrapers, tractors, and trailing units) whose maximum speed exceeds 15 miles per hour, shall be equipped with fenders on all wheels to meet the requirements of Society of Automotive Engineers SAE J321a-1970, Fenders for Pneumatic-Tired Earthmoving Haulage Equipment. An employer may, of course, at any time seek to show under WAC 296-155-010, that the uncovered wheels present no hazard to personnel from flying materials.~~

~~(f) Rollover protective structures (ROPS). See Part V of this chapter for requirements for rollover protective structures and overhead protection.~~

~~(g) Rollover protective structures for off-highway trucks. The promulgation of standards for rollover protective structures for off-highway trucks is reserved pending further study and development.~~

~~(h) Specific effective dates. Brakes and fenders. Equipment mentioned in WAC 296-155-615 (d) and (e) and manufactured after January 1, 1972, which is used by any employer after that date, shall comply with the applicable rules prescribed therein concerning brakes. Equipment mentioned in WAC 296-155-615 (d) and (e) and manufactured before January 1, 1972, which is used by any employer after that date, shall meet the applicable rules prescribed herein not later than October 1, 1974. It should be noted that employers may request variations from the applicable brakes standards required by this part. Employers wishing to seek variations~~

from the applicable brakes rules may submit any requests for variations in accordance with WAC 296-155-010. Any statements should specify how the variation would protect the safety of the employees by providing for any compensating restrictions on the operation of equipment.

(i) Audible alarms.

(i) All bidirectional machines, such as rollers, compactors, front-end loaders, bulldozers, and similar equipment, shall be equipped with a horn, distinguishable from the surrounding noise level, which shall be operated as needed when the machine is moving in either direction. The horn shall be maintained in an operative condition.

(ii) No employer shall permit earthmoving or compacting equipment which has an obstructed view to the rear to be used in reverse gear unless the equipment has in operation a reverse signal alarm distinguishable from the surrounding noise level or an employee signals that it is safe to do so.

(iii) In circumstances where the surrounding noise level is of such amplitude that reverse signal alarms are not effective, amber strobe lights shall be used.

(iv) Operators of equipment which does not have an obstructed view to the rear shall look to the rear while operating the equipment in reverse.

(j) Scissor points. Scissor points on all front-end loaders, which constitute a hazard to the operator during normal operation, shall be guarded.

(k) Tractor motors shall be cranked only by operators or other experienced persons.

(l) Waterproof and comfortable seat cushions shall be provided on tractors at all times when working.

(m) Riders, except mechanics and persons in training to operate equipment, shall not be allowed on equipment unless a seat with a seatbelt is provided and used.

(n) Winch lines shall be maintained in good condition and provided with spliced eye, knob or hook in working end, except under conditions where unspliced end is required.

(o) No repairs on blade or dozer equipment shall be initiated unless motor has been stopped and dozer blade is resting on the ground or securely blocked. The same shall apply to carry all gates.

(p) Bulldozer blades and carryall gates shall rest on the ground or on blocking when machines are not in operation.

(q) Operator shall not leave controls of tractor with master clutch engaged.

(r) Personnel shall not get on or off machine while machine is in motion.

(s) Where excessive dust conditions are created, such areas shall be sprinkled with water to maintain dust at a minimum.

(t) Respirators shall be worn by operators when subject to harmful dust exposure.

(2) Excavating and other equipment.

(a) Tractors covered in subsection (1) of this section shall have seat belts as required for the operators when seated in the normal seating arrangement for tractor operation, even though backhoes, breakers, or other similar attachments are used on these machines for excavating or other work.

(b) For the purposes of this part and of Part L of this chapter, the nomenclatures and descriptions for measurement of dimensions of machinery and attachments shall be as

described in Society of Automotive Engineers 1970 Handbook, pages 1088 through 1103.

(e) The safety requirements, ratios, or limitations applicable to machines or attachment usage covered in Power Crane and Shovel Association's Standards No. 1 and No. 2 of 1968, and No. 3 of 1969, shall be complied with, and shall apply to cranes, machines, and attachments under this part.)
General requirements for earthmoving equipment.

(a) Scope.

These rules apply to the earthmoving equipment. Some examples of earthmoving equipment are:

- Scrapers;
- Loaders;
- Crawler or wheel tractors;
- Bulldozers;
- Off-highway trucks;
- Graders;
- Agricultural and industrial tractors;

AND

- Similar equipment.

(b) Seat belts.

Seat belts must be provided and used by all operators and passengers on all equipment covered by this section.

Seat belts must meet the requirements of the Society of Automotive Engineers, J386-1969, Seat Belts for Construction Equipment.

Seat belts for agricultural and light industrial tractors must meet the seat belt requirements of Society of Automotive Engineers J333a-1970, Operator Protection for Agricultural and Light Industrial Tractors.

Exemption: Seat belts are not required for equipment designed only for standup operation.

Seat belts must not be used on equipment that does not have rollover protective structure (ROPS) or adequate canopy protection in place.

Exemption: Mechanics and persons in training may ride on the equipment without a seatbelt if one is not provided.

(c) Access roadways and grades.

Equipment must not be operated on access roadway or grades unless they are constructed and/or maintained to allow for the safe operation of the equipment.

Every emergency access ramp and berm used by an employer must be constructed to restrain and control runaway vehicles.

(d) Brakes.

Earthmoving equipment must have brakes capable of stopping and holding the equipment fully loaded.

Equipment mentioned in (a) of this subsection, General requirements for earthmoving equipment, must have brakes meeting the specifications in Society of Automotive Engineers SAE-J237, Loader Dozer-1971, J236, Graders-1971, and J319b, Scrapers-1971.

Brake systems for self-propelled rubber-tired off-highway equipment manufactured after January 1, 1972, must meet the applicable minimum performance criteria set forth in the following Society of Automotive Engineers Recommended Practices:

Self-propelled scrapers

SAE J319b-1971

Self-propelled graders

SAE J236-1971

Truck and wagons SAE J166-1971

Front-end loaders and dozers SAE J237-1971

(e) Fenders.

• If pneumatic-tired earthmoving haulage equipment has a maximum speed that exceeds fifteen miles per hour, then the equipment must be equipped with fenders on all wheels to meet the requirements of Society of Automotive Engineers SAE J321a-1970, Fenders for Pneumatic-Tired Earthmoving Haulage Equipment.

• An employer may, at any time, seek to show under WAC 296-155-010, Variance and procedure, that the uncovered wheels present no hazard to personnel from flying materials.

Note: Examples of pneumatic-tired earthmoving haulage equipment may include:

- Trucks;
- Scrapers;
- Tractors;
- AND**
- Trailing units.

(f) Rollover protective structures (ROPS).

For requirements pertaining to rollover protective structures and overhead protection, see WAC 296-155-950 through 296-155-965.

(g) Audible alarms.

• All bidirectional machines must be equipped with a horn, distinguishable from the surrounding noise level. This horn must be:

– Operated as needed when the machine is moving in either direction;

AND

– Maintained in an operative condition.

Note: Examples of bidirectional machines include:

- Rollers;
- Compactors;
- Front-end loaders;
- Bulldozers;
- AND**
- Similar equipment.

• Employers must make sure that earthmoving or compacting equipment with an obstructed view to the rear in reverse is not operated unless:

– A reverse signal alarm distinguishable from the surrounding noise level is used;

OR

– An observer signals that it is safe to back up.

• If the surrounding noise level is of such amplitude that reverse signal alarms are not effective, then amber strobe lights must be used.

(h) Operators must look in the direction of travel.

The driver must look in the direction of, and keep a clear view of the path of travel, when operating equipment in reverse.

Exemption: See (g)(ii) of this subsection, Audible alarms, for requirements pertaining to equipment that has an obstructed view to the rear.

(i) Scissor points.

Scissor points on all front-end loaders, which constitute a hazard to the operator during normal operation, must be guarded.

(j) Tractors.

• Tractor motors must be cranked only by operators or other experienced persons.

• Waterproof and comfortable seat cushions must be provided on tractors at all times when working.

• Operator must not leave controls of tractor with master clutch engaged.

(k) Winch lines.

Winch lines must be maintained in good condition and provided with spliced eye, knob or hook in working end, except under conditions where unspliced end is required.

(l) Bulldozers and carry-all gates.

• Repairs on blade or dozer equipment must not be initiated unless the motor has been stopped and dozer blade is resting on the ground or securely blocked. The same applies to carry-all gates.

• Bulldozer blades and carry-all gates must rest on the ground or on blocking when machines are not in operation.

(m) Moving equipment.

Personnel must not get on or off machine while machine is in motion.

(n) Hazardous conditions.

Where excessive dust conditions are created, such areas must be sprinkled with water or an environmentally safe solution to keep dust at a minimum.

Reference: When dust presents a hazard, see chapter 296-841 WAC, Respiratory hazards for additional requirements.

(2) Excavating and other equipment.

(a) Tractors covered in subsection (1) of this section must have seat belts as required for the operators when seated in the normal seating arrangement for tractor operation.

(b) For the purposes of this part and of Part L of this chapter, the names and descriptions for measurement of dimensions of machinery and attachments must be as described in Society of Automotive Engineers 1970 Handbook, pages 1088 through 1103.

(c) The safety requirements, ratios, or limitations applicable to machines or attachment usage covered in Power Crane and Shovel Association's Standards No. 1 and No. 2 of 1968, and No. 3 of 1969, must be complied with, and must apply to cranes, machines, and attachments under this part.

(3) Lifting and hauling equipment (other than equipment covered under Part L of this chapter). Industrial trucks (including forklifts) shall meet the requirements of WAC 296-24-230, 296-155-605 and the following:

(a) Lift trucks, stackers, etc., shall have the rated capacity clearly posted on the vehicle so as to be clearly visible to the operator. When auxiliary removable counter-weights are provided by the manufacturer, corresponding alternate rated capacities also shall be clearly shown on the vehicle. These ratings shall not be exceeded.

(b) No modifications or additions which affect the capacity or safe operation of the equipment shall be made without the manufacturer's or professional engineer's written approval. If such modifications or changes are made, the capacity, operation, and maintenance instruction plates, tags, or decals, shall be changed accordingly. In no case shall the original safety factor of the equipment be reduced.

(c) If a load is lifted by two or more trucks working in unison, the proportion of the total load carried by any one truck shall not exceed its capacity.

(d) Steering or spinner knobs shall not be attached to the steering wheel unless the steering mechanism is of a type that prevents road reactions from causing the steering handwheel to spin. The steering knob shall be mounted within the periphery of the wheel.

(e) All high lift rider industrial trucks shall be equipped with overhead guards which meet the configuration and structural requirements as defined in paragraph 502 of American National Standards Institute B56.1-1975, Safety Standards for Powered Industrial Trucks.

(f) All industrial trucks in use shall meet the applicable requirements of design, construction, stability, inspection, testing, maintenance, and operation, as defined in American National Standards Institute B56.1-1975, Safety Standards for Powered Industrial Trucks.

(g) Unauthorized personnel shall not be permitted to ride on powered industrial trucks. A safe place to ride shall be provided where riding of trucks is authorized.

(h) When a forklift truck is used for elevating workers a platform shall be specifically built for that purpose and shall comply with the following requirements:

(i) The platform shall be securely attached to the forks and shall have standard guardrails and toeboards on all open sides.

(ii) The hydraulic system of the forklift shall be so designed that the lift mechanism will not drop faster than one hundred thirty-five feet per minute in the event of a failure in any part of the system. Forklifts used for elevating platforms shall be identified that they are so designed.

(iii) A safety strap shall be installed or the control lever shall be locked to prevent the boom from tilting.

(iv) An operator shall be at the controls of the forklift equipment while persons are on the platform.

(v) The operator shall be in the normal operating position while raising or lowering the platform.

(vi) The vehicle shall not travel from point to point while workers are on the platform except that inching or maneuvering at very slow speed is permissible.

(vii) The area between workers on the platform and the mast shall be adequately guarded to prevent contact with chains or other shear points.

(viii) All platforms shall be visually inspected daily or before each use by the person in charge of the work being performed, and shall be tested as frequently as is necessary to maintain minimum safety factors.

(ix) Whenever a truck, except for high lift order picker trucks, is equipped with vertical hoisting controls elevatable with the lifting carriage or forks, the following precautions shall be taken for the protection of personnel being elevated.

(A) Provide a platform secured to the lifting carriage and/or forks.

(B) Provide means whereby personnel on the platform can shut off power to the truck.

(C) Provide such protection from falling objects as indicated necessary by the operating conditions.

AMENDATORY SECTION (Amending WSR 99-17-094, filed 8/17/99, effective 12/1/99)

WAC 296-155-655 General protection requirements.

(1) Surface encumbrances. All surface encumbrances that are located so as to create a hazard to employees shall be removed or supported, as necessary, to safeguard employees.

(2) Underground installations.

(a) The location of utility installations, such as sewer, telephone, fuel, electric, water lines, or any other underground installations that reasonably may be expected to be encountered during excavation work, shall be located prior to opening an excavation.

(b) Utility companies or owners shall be contacted within established or customary local response times, advised of the proposed work, and asked to locate the underground utility installation prior to the start of actual excavation.

(c) When excavation operations approach the location of underground installations, the exact location of the installations shall be determined by safe and acceptable means.

(d) While the excavation is open, underground installations shall be protected, supported, or removed as necessary to safeguard employees.

(3) Access and egress.

(a) Structural ramps.

(i) Structural ramps that are used solely by employees as a means of access or egress from excavations shall be designed by a competent person. Structural ramps used for access or egress of equipment shall be designed by a competent person qualified in structural design, and shall be constructed in accordance with the design.

(ii) Ramps and runways constructed of two or more structural members shall have the structural members connected together to prevent displacement.

(iii) Structural members used for ramps and runways shall be of uniform thickness.

(iv) Cleats or other appropriate means used to connect runway structural members shall be attached to the bottom of the runway or shall be attached in a manner to prevent tripping.

(v) Structural ramps used in lieu of steps shall be provided with cleats or other surface treatments on the top surface to prevent slipping.

(b) Means of egress from trench excavations. A stairway, ladder, ramp or other safe means of egress shall be located in trench excavations that are 4 feet (1.22 m) or more in depth so as to require no more than 25 feet (7.62 m) of lateral travel for employees.

(4) Exposure to vehicular traffic. Employees exposed to public vehicular traffic ~~((shall))~~ must be provided with ~~((s))~~ and ~~((shall))~~ must wear ~~((warning vests or other suitable))~~ high-visibility garments ~~((marked with or made of reflectorized or high-visibility material))~~ meeting the requirements of WAC 296-155-200, General requirements for personal protective equipment (PPE).

(5) Exposure to falling loads. No employee shall be permitted underneath loads handled by lifting or digging equipment. Employees shall be required to stand away from any vehicle being loaded or unloaded to avoid being struck by any spillage or falling materials. Operators may remain in the cabs of vehicles being loaded or unloaded when the vehicles

are equipped, in accordance with WAC 296-155-610 (2)(g), to provide adequate protection for the operator during loading and unloading operations.

(6) Warning system for mobile equipment. When mobile equipment is operated adjacent to an excavation, or when such equipment is required to approach the edge of an excavation, and the operator does not have a clear and direct view of the edge of the excavation, a warning system shall be utilized such as barricades, hand or mechanical signals, or stop logs. If possible, the grade should be away from the excavation.

(7) Hazardous atmospheres.

(a) Testing and controls. In addition to the requirements set forth in parts B-1, C, and C-1 of this chapter (296-155 WAC) to prevent exposure to harmful levels of atmospheric contaminants and to assure acceptable atmospheric conditions, the following requirements shall apply:

(i) Where oxygen deficiency (atmospheres containing less than 19.5 percent oxygen) or a hazardous atmosphere exists or could reasonably be expected to exist, such as in excavations in landfill areas or excavations in areas where hazardous substances are stored nearby, the atmospheres in the excavation shall be tested before employees enter excavations greater than 4 feet (1.22 m) in depth.

(ii) Adequate precautions shall be taken to prevent employee exposure to atmospheres containing less than 19.5 percent oxygen and other hazardous atmospheres. These precautions include providing proper respiratory protection or ventilation ~~((in accordance with parts [as required by chapter 296-62 WAC, part E and by part] B-1 [and C] of this chapter [respectively]))~~ in accordance with parts B-1 and C of this chapter respectively.

(iii) Adequate precaution shall be taken such as providing ventilation, to prevent employee exposure to an atmosphere containing a concentration of a flammable gas in excess of 10 percent of the lower flammable limit of the gas.

(iv) When controls are used that are intended to reduce the level of atmospheric contaminants to acceptable levels, testing shall be conducted as often as necessary to ensure that the atmosphere remains safe.

(b) Emergency rescue equipment.

(i) Emergency rescue equipment, such as breathing apparatus, a safety harness and line, or a basket stretcher, shall be readily available where hazardous atmospheric conditions exist or may reasonably be expected to develop during work in an excavation. This equipment shall be attended when in use.

(ii) Employees entering bell-bottom pier holes, or other similar deep and confined footing excavations, shall wear a harness with a lifeline securely attached to it. The lifeline shall be separate from any line used to handle materials, and shall be individually attended at all times while the employee wearing the lifeline is in the excavation.

Note: See chapter 296-62 WAC, Part M for additional requirements applicable to confined space operations.

(8) Protection from hazards associated with water accumulation.

(a) Employees shall not work in excavations in which there is accumulated water, or in excavations in which water is accumulating, unless adequate precautions have been taken

to protect employees against the hazards posed by water accumulation. The precautions necessary to protect employees adequately vary with each situation, but could include special support or shield systems to protect from cave-ins, water removal to control the level of accumulating water, or use of a safety harness and lifeline.

(b) If water is controlled or prevented from accumulating by the use of water removal equipment, the water removal equipment and operations shall be monitored by a competent person to ensure proper operation.

(c) If excavation work interrupts the natural drainage of surface water (such as streams), diversion ditches, dikes, or other suitable means shall be used to prevent surface water from entering the excavation and to provide adequate drainage of the area adjacent to the excavation. Excavations subject to runoff from heavy rains will require an inspection by a competent person and compliance with subdivisions (a) and (b) of this subsection.

(9) Stability of adjacent structures.

(a) Where the stability of adjoining buildings, walls, or other structures is endangered by excavation operations, support systems such as shoring, bracing, or underpinning shall be provided to ensure the stability of such structures for the protection of employees.

(b) Excavation below the level of the base or footing of any foundation or retaining wall that could be reasonably expected to pose a hazard to employees shall not be permitted except when:

(i) A support system, such as underpinning, is provided to ensure the safety of employees and the stability of the structure; or

(ii) The excavation is in stable rock; or

(iii) A registered professional engineer has approved the determination that the structure is sufficiently removed from the excavation so as to be unaffected by the excavation activity; or

(iv) A registered professional engineer has approved the determination that such excavation work will not pose a hazard to employees.

(c) Sidewalks, pavements, and appurtenant structure shall not be undermined unless a support system or another method of protection is provided to protect employees from the possible collapse of such structures.

(10) Protection of employees from loose rock or soil.

(a) Adequate protection shall be provided to protect employees from loose rock or soil that could pose a hazard by falling or rolling from an excavation face. Such protection shall consist of scaling to remove loose material; installation of protective barricades at intervals as necessary on the face to stop and contain falling material; or other means that provide equivalent protection.

(b) Employees shall be protected from excavated or other materials or equipment that could pose a hazard by falling or rolling into excavations. Protection shall be provided by placing and keeping such materials or equipment at least 2 feet (.61 m) from the edge of excavations, or by the use of retaining devices that are sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary.

(11) Inspections.

(a) Daily inspections of excavations, the adjacent areas, and protective systems shall be made by a competent person for evidence of a situation that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions. An inspection shall be conducted by the competent person prior to the start of work and as needed throughout the shift. Inspections shall also be made after every rainstorm or other hazard increasing occurrence. These inspections are only required when employee exposure can be reasonably anticipated.

(b) Where the competent person finds evidence of a situation that could result in a possible cave-in, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions, exposed employees shall be removed from the hazardous area until the necessary precautions have been taken to ensure their safety.

(12) Fall protection.

(a) Walkways shall be provided where employees or equipment are required or permitted to cross over excavations. Guardrails which comply with chapter 296-155 WAC, Part K shall be provided where walkways are 4 feet or more above lower levels.

(b) Adequate barrier physical protection shall be provided at all remotely located excavations. All wells, pits, shafts, etc., shall be barricaded or covered. Upon completion of exploration and similar operations, temporary wells, pits, shafts, etc., shall be backfilled.

WSR 04-14-085

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

(By the Code Reviser's Office)

[Filed July 6, 2004, 1:32 p.m.]

WAC 220-16-800, 220-16-810, 220-16-820, 220-16-830, 220-16-840, 220-16-850 and 220-20-100, proposed by the Department of Fish and Wildlife in WSR 04-01-195 appearing in issue 04-01 of the State Register, which was distributed on January 7, 2004, 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 04-14-087

**PROPOSED RULES
PUGET SOUND
CLEAN AIR AGENCY**

[Filed July 6, 2004, 2:07 p.m.]

Continuance of WSR 04-11-121.

Title of Rule and Other Identifying Information:
Amending Regulation I, Sections 7.03 and 7.07.

Hearing Location(s): Puget Sound Clean Air Agency, 110 Union Street, #500, Seattle, WA 98101, on July 22, 2004, at 9:15 a.m.

Date of Intended Adoption: July 22, 2004.

Submit Written Comments to: Dennis McLerran, Puget Sound Clean Air Agency, 110 Union Street, #500, Seattle, WA 98101, fax (206) 343-7522, by July 22, 2004.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by July 15, 2004, TTY (800) 833-6388 or (800) 833-6385 (Braille).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Continue hearing from June 24, 2004, to July 22, 2004.

July 1, 2004

Steve M. Van Slyke
Supervisory Engineer

WSR 04-14-094

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 03-10—Filed July 6, 2004, 4:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-04-101.

Title of Rule and Other Identifying Information: Dangerous Waste Regulations, chapter 173-303 WAC, the dangerous waste regulations set forth the requirements for determining if solid wastes are dangerous wastes, establish a system for tracking dangerous waste from initial generation to treatment or disposal, and establish requirements for facilities so that all dangerous wastes are managed safely and responsibly in Washington state.

Hearing Location(s): Video conference hearings will be held simultaneously at the **University of Washington, Tacoma**, Administrative Building, Room BHS107, 1900 Commerce Street, Tacoma, WA 98402-3100, 1st floor room, above the street-level businesses (Starbucks), link to site location information <http://www.tacoma.washington.edu/media/video/>; at the **Spokane Community College**, 1810 North Greene Street, Spokane, WA 99207-5399, Room - Instructional Media Lab; at the **University of Washington, Seattle**, Magnuson Health Sciences Center, Computing and Communications, UWTV, T-Wing Room 239, 2nd floor, near the Health Sciences Center Library, N.E. Pacific Street near 15th Avenue, Seattle, WA 98195-7150, campus map <http://www.washington.edu/home/maps/southcentral.html>; and at **Yakima Valley Community College**, 16th Street and Nob Hill Boulevard, Yakima, Washington 98907, on August 10, 2004, at 1 to 4 p.m.

Date of Intended Adoption: November 30, 2004.

Submit Written Comments to: Patricia Hervieux, P.O. Box 47600, Olympia, WA 98504-7600, e-mail pher461@ecy.wa.gov, fax (360) 407-6715, by September 10, 2004.

Assistance for Persons with Disabilities: Contact Marnie Black by August 2, 2004, TTY (800) 833-8973 or (360) 407-6759.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments will bring the state regulations current with federal requirements, and will update other requirements including implementing the hazardous waste facilities initiative on recycling and used oil facilities.

Reasons Supporting Proposal: Proposed amendments related to federal rules: Ecology is proposing to adopt several federal hazardous waste rules into the state dangerous waste regulations. Many are proposed with language identical to the federal rule. Others are proposed with differences between the state and federal version. The rule titles and Federal Register references of the federal hazardous waste rules proposed for adoption are listed below. The text of the summary paragraphs that appeared in the Federal Register was included in ecology's public draft that was available for review earlier this year. However, due to space constraints, only the titles and dates of the federal rules appear below. More detailed information appears on ecology's website with the text of the proposed rule or may be obtained from the department.

Federal hazardous waste rules proposed for adoption essentially unchanged from the federal version include the following: 1) Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision C(92)39 Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations 61 F.R. 16290-16316; 2) Hazardous Waste Management System; Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions 62 F.R. 32974-32980; 3) Second Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes From Carbamate Production 62 F.R. 45568-45573; 4) NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule 64 F.R. 52828-53077; 64 F.R. 63209-63213; 5) Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters 64 F.R. 56469-56472; 6) 180-Day Accumulation Time Under RCRA for Waste Water Treatment Sludges From the Metal Finishing Industry 65 F.R. 12378-12398; 7) Organobromines Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions 64 F.R. 36365-36367; 8) Change of Official EPA Mailing Address; Additional Technical Amendments and Corrections 66 F.R. 34374-34376; 9) Hazardous Waste Management System; Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities 66 F.R. 58258-58300; 67 F.R. 17119-17120; 10) NESHAP: Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Interim Standards Rule) 67 F.R. 6792-6818; 11) Zinc Fertilizers Made From Recycled Hazardous Secondary Materials 67 F.R. 48393-48415; 12) Land Disposal Restrictions: National Treatment Variance To Designate New Treatment Subcategories for Radioactively Contaminated

Cadmium-, Mercury-, and Silver-Containing Batteries 67 F.R. 62618-62624; and 13) NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors-Corrections 67 F.R. 77687-77692.

The following federal regulations that are proposed for adoption either contain differences from the federal version or have extra explanatory information: 14) Hazardous Waste Combustors; Revised Standards; Final Rule-Part 1: RCRA Comparable Fuel Exclusion; Permit Modifications for Hazardous Waste Combustion Units; Notification of Intent To Comply; Waste Minimization and Pollution Prevention Criteria for Compliance Extensions 63 F.R. 33782-33829; 15) NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Technical Corrections 65 F.R. 42292-42302; 66 F.R. 24270-24272; 66 F.R. 35087-35107; 16) Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules 66 F.R. 27266-27297; 17) Amendments to the Corrective Action Management Unit Rule 67 F.R. 2962-3029; 18) NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule 67 F.R. 6968-6996; 19) Universal Waste for Mercury-Containing Equipment proposed by EPA on June 12, 2002 Hazardous Waste Management System; Modification of the Hazardous Waste Program; Cathode Ray Tubes and Mercury-Containing Equipment 67 F.R. 40508-40528; 20) Waste Minimization. HSWA Codification Rule, 50 F.R. 28702-28755, July 15, 1985 and Biennial Report Correction, 51 F.R. 28556, August 8, 1986; and 21) National Environmental Performance Track Program 69 F.R. 21737-21754, April 22, 2004.

Other proposed amendments not related to federal rules: Ecology is proposing other amendments not related to the federal rules listed above. Several editorial and technical corrections and clarifications are being made including citation corrections, form name changes, changing SIC codes to NAICS codes, updating references to solid waste rules by changing chapter citations from chapter 173-304 WAC to chapter 173-350 WAC, correcting citations throughout the rule, changing references from the Uniform Fire Code to the International Fire Code, and other minor technical corrections. Several of the more significant changes are described below. More detailed explanations are available from ecology.

Changes are also being made to update the publication *Chemical Testing Methods for Designating Dangerous Waste*. The draft changes are available for review in a separate document on ecology's website with the other rule information. The only related changes in the rules themselves are revision dates changes where references to the test methods appear.

WAC 173-303-045: July 1, 2003, is the new date for incorporation by reference of any federal requirements since it is the version of the federal rules that includes all newer rules that ecology is proposing for adoption with the exception of the performance track rule.

WAC 173-303-060: "Notification Form 2" is being changed to "Dangerous Waste Site Identification Form" here and at WAC 173-303-210(2) and 173-303-240 (6)(a).

WAC 173-303-070(8): This addition clarifies application of the used oil management standards to small quantity

generator used oil. This intent was made clear in the Federal Register Notice in 1992. This addition provides consistency between the federal and the state rules.

WAC 173-303-110(3) Chemical Testing Methods

Update: Citations to chemical testing methods are being updated to reflect revisions to state-only persistence criteria for halogenated organic compounds in Chapter 3, Section C of Ecology publication #97-407 'Chemical Testing Methods for Designating Dangerous Waste.'

WAC 173-303-190 (5)(b): The marking requirement in the June 2000 rule was inadvertently noted as applying to packages containing one hundred ten gallons. This change will include the intermediate bulk containers of greater than one hundred ten gallons but less than a thousand gallons and will also include cylinders within this range that are commonly used for antifreeze.

WAC 173-303-200 (2)(a)(ii): WAC 173-303-200 (2)(a) is being amended to clarify that contingency planning and general facility inspections are required for satellite accumulation.

WAC 173-303-300 (2)(a) and (b) and new definition in WAC 173-303-040 for "Knowledge:" Ecology is proposing to amend the regulations to clarify requirements for confirming and documenting information from a generator on a waste profile for a waste stream. Ecology believes the proposed amendment is consistent with general requirements in the existing rules to ensure sufficient information for waste designation (WAC 173-303-070) and proper management of the waste (WAC 173-303-300(2)).

WAC 173-303-400 (3)(c)(ix): A change is being proposed to require owners or operators of interim status facilities to submit a closure plan for partial closure of a tank, container storage, or incinerator unit at least forty-five days prior to the date they expect to begin closure of such a unit.

WAC 173-303-505(1): The proposed amendment provides ecology the discretion to accept a waste-derived fertilizer registration renewal without requiring new TCLP and HOC test data. This discretion is limited to renewals of waste-derived fertilizers that have provided this information to ecology at least twice before. The rule change requires the registrant to provide documentation that the source materials in the product have not changed.

WAC 173-303-515(13): This amendment to the used oil management standards adds a section that gives the agency the ability to require used oil generators to test their waste on a case-by-case basis to identify if the oil is on or off specification oil or to rebut the presumption that the oil is actually dangerous waste. This regulation will simplify testing requirements and be a benefit to used oil generators by allowing ecology to request the less expensive analytical tests for on-specification determinations rather than the more expensive tests for designation.

WAC 173-303-610 (3)(c)(i): This change requires owners or operators of final status facilities to notify ecology of a partial closure of a tank, container storage, or incinerator unit at least forty-five days prior to the date of which they expect to begin closure of such a unit.

WAC 173-303-640 (7)(d): These changes bring this subsection into alignment with the other sections in dangerous waste regulations that require reporting for spills.

WAC 173-303-802(5) and 173-303-040 Designated facility: This rule change will allow facilities that operate wastewater treatment units under permit by rule (PBR) to receive hazardous wastewaters that have been generated from off site. The scope of this rule change will be limited to the receipt of wastewaters from off site that are from a similar industry and have similar dangerous constituents to those in the wastewaters that are normally generated and treated by the host wastewater treatment unit. This change will not open up opportunities for businesses to operate under permit by rule and receive wastewater from unrelated off-site sources. The potential receiving facility must have a wastewater treatment unit that was designed to treat wastewaters that are generated on-site before it would be eligible to receive similar wastewaters from off-site generated by their associated businesses.

WAC 173-303-910 (1)(c) and (6)(f)(i) Petitions: The current forty-five day minimum public comment period in WAC 173-303-910 (1)(c) is being shortened for consistency with related requirements in the Administrative Procedure Act.

WAC 173-303-9904 W001 Listing: The state waste code for PCB is being changed from W001 to WPCB to prevent confusion since EPA now uses "W001" as a form code for the Hazardous Waste Report Instructions and Forms.

Hazardous waste facilities initiative: The proposed rules to implement this initiative will revise and strengthen current standards for the protection of human health and the environment for hazardous waste and used oil management facilities. They will also provide assurance that owners and operators of waste management facilities plan and pay for the eventual closure of their operations. This is done by extending requirements for developing plans for closing facilities, estimating the costs for closure, obtaining pollution liability coverage, and assuring that funds will be available to pay for closure for hazardous waste recycling facilities and used oil processors/rerefiners. Changes are also proposed to rules that apply to hazardous waste treatment, storage and disposal (TSD) facilities. These changes will reduce the range of financial options that facilities may select from, prohibit the use of subsidiary insurance companies (captive insurance), and require that financial institutions maintain a good rating by national rating agencies (Standard & Poor's, Moody's, A.M. Best).

Revisions are proposed to WAC 173-303-040, 173-303-120, 173-303-515, 173-303-610, 173-303-620, and 173-303-960: These revisions will not apply to on-site recycling or on-site used oil processing, collection of used oil or household hazardous wastes by cities and counties, or collection of farm pesticides by Washington Department of Agriculture. Origin of this proposal. Three facilities in Washington, including a recycler, a used oil processor, and a combination TSD/recycler/used oil processor failed and were abandoned during the period from 1999 through 2001. The department began assessing inadequacies and gaps in hazardous waste requirements that allow facility owners and operators to avoid accountability for the financial costs of removing and disposing of wastes; decontaminating equipment, tanks and buildings; and addressing threats to human health or the environment.

PROPOSED

In 2002, ecology published a report to the legislature that outlined problems and inadequacies with the current system for regulating, permitting, maintaining public information, and funding ecology's oversight responsibilities for TSDs, recyclers and used oil processors (see <http://www.ecy.wa.gov/biblio/0204028.html>). Representatives from the waste management industry, large and small businesses, public interest and environmental organizations, and government (local, state and federal) were consulted during the process of identifying these problems and proposing solutions.

The proposed rules are intended to specifically address some of the problems that were identified. These rules will assure that owners and operators of hazardous waste recycling or used oil processing/rerefining facilities cannot close, abandon, or otherwise avoid paying for waste removal, disposal and decontamination of equipment and structures. Under current rules these facilities may shut down and leave the costs of controlling environmental threats, removing wastes and conducting sites cleanup to property owners, former customers, or taxpayers. For recycling facilities and used oil processors/rerefiners, these costs may often range from tens of thousands to several hundred thousand dollars. In some cases in Washington, the total cleanup costs have been several million dollars. Several examples are provided in the department's report to the legislature.

In the fall of 2003, two major options were presented to stakeholders for revising closure and financial responsibility requirements for TSD facilities, recyclers and used oil processors. Major features of these options included: *Option 1.* Revise selected requirements of financial mechanisms for TSDs. Extend traditional closure and financial responsibility requirements to recyclers and used oil processors/rerefiners. *Option 2.* Revise selected requirements of financial mechanisms for TSDs. Require recyclers and used oil processors/rerefiners to prepare and submit closure plans. Establish a maximum closure amount of \$50,000 for recyclers and used oil processors/rerefiners with a provision that the amount may be lower if justified by a detailed closure cost estimate; and delete the requirement for pollution liability coverage.

Based upon comments received during an informal comment period and during comments from the public on our published intent to adopt rule (CR-101), Option 1, above, was chosen for proposal. The department considered the comments and determined that Option 1 provided the greatest level of confidence that the costs of closure would be accounted for and that the preparation of a site-specific cost estimate is scaled to the volume, types and risks associated with the wastes being managed. The primary disadvantages of selecting Option 1 are that it will result in higher direct costs for facility owners/operators for complying with closure and financial requirements, and to the department for administrative costs. Option 1 is also expected to indirectly result in higher costs to waste generators as facility owners/operators pass on their costs to customers.

Statutory Authority for Adoption: Chapter 70.105, 70.105D, and 15.54 RCW.

Statute Being Implemented: Chapter 70.105 RCW.

Rule is necessary because of federal law, 40 C.F.R. Parts 260 through 279.

Name of Proponent: Department of Ecology, governmental.

Name of Agency Personnel Responsible for Drafting: Patricia Hervieux, Lacey, Washington, (360) 407-6756; Implementation and Enforcement: Darin Rice, Lacey, Washington, (360) 407-6702.

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

Small Business Economic Impact Statement

1. BACKGROUND: Washington Department of Ecology (ecology) is proposing adoption of revisions to the dangerous waste regulations (chapter 173-303 WAC). The statutes authorizing ecology to adopt the proposed rule are the Hazardous Waste Management Act (chapter 70.105 RCW), the Hazardous Waste Cleanup-Model Toxics Control Act (chapter 50.105D RCW), and the Fertilizer Regulation Act (chapter 15.54 RCW). In Washington, dangerous wastes include federally regulated hazardous wastes (listed, flammable, corrosive, reactive or toxic), plus additional types of wastes captured by Washington's regulations because they are toxic or persistent. The key purpose of this rule making is to update the dangerous waste regulations by incorporating recent federal hazardous waste requirements into the state's regulations. By staying current with the federal program, the regulated community has primarily one environmental agency to work with. Another purpose is to update state requirements, including implementing recommendations of the hazardous waste facilities initiative.

The proposed revisions include adding mercury-containing devices to the universal waste rule, updating export requirements, adopting air emission permit rules, and amendments to corrective action rules. Changes to state-only requirements are primarily technical in nature; however, changes to implement the hazardous waste facilities initiative to extend financial requirements to recyclers and used oil processors and rerefiners will have some impacts on those who must comply.

As required under RCW 19.85.030, ecology is developing and issuing this small business economic impact statement (SBEIS) as part of this rule adoption process. Ecology will use the information developed in the SBEIS as required by law to ensure that the proposed rule is 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 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 purpose and contents of the SBEIS are contained in RCW 19.85.040. *"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 business 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; and c. Cost per hundred dollars of sales. A small business economic impact statement must also include: [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); [7] A description of how the agency will involve small business in the development of the rule; and [8] A list of industries that will be required to comply with the rule."

For purposes of an SBEIS, "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.

The proposed dangerous waste rule developed by ecology as part of this rule-making process will be evaluated in the following sections of this document. Specifically, the following sections contain the information required by the Regulatory Fairness Act (chapter 19.85 RCW).

2. ANALYSIS OF COMPLIANCE COSTS FOR WASHINGTON BUSINESSES: The proposed rule includes revisions to the existing rule sections and new sections. In some sections, no changes were made. In other sections, the changes will have little or no impacts on those required to comply.

Generally, the dangerous wastes are divided into two categories, one is federally regulated dangerous waste, and the other is state-only regulated dangerous waste. Federally regulated dangerous waste may be subject to both federal and state requirements; on the other hand, state regulated dangerous waste may also be subject to both federal and state requirements, or only to state requirements. In order to discuss the cost impacts of the proposed rule revisions, it is necessary to consider the baseline from which the changes in requirements are measured. The baseline describes the circumstance without the proposed rule revision. Because the generators must comply with federal requirement and existing state requirement whichever is more stringent, the baseline can be chosen as the more stringent one of the two

requirements, and the costs analyzed are the additional costs of the proposed rule revision relative to the baseline.

In the proposed revision, some changes originated from federal requirements, others clarify existing rule with no real change, some only add new examples, and some are editorial changes. All of these make no real change from the baseline, and will not have cost impacts on those who comply with the rule, so they are excluded from this SBEIS. This analysis only analyzes changes from the baseline that will result in additional costs. These changes can be summarized as changes of requirements for treatment, storage, and disposal (TSD) facilities, changes of requirements for generators, and changes of requirements for fertilizer registrants or manufacturers. Other areas of changes are for mercury, used oil, permit by rule, and financial assurance.

To investigate the economic impacts of these changes, RCW 19.85.040(3) states: *To obtain information for purposes of this section, an agency may survey a representative sample of affected businesses...* As such, ecology conducted a survey to determine the costs of compliance or saving of those who are required to comply if the proposed rule revisions are adopted. The survey was intended for different groups that will be affected by different requirements, and the following analyses are based on this survey. Although the survey identified both cost changes and cost saving changes, this analysis is only concerned about the cost aspects.

As in the survey, this analysis divides the proposed rule revision into seven different groups to analyze. It first introduces the proposed revisions that will impact each group, then analyzes the possible impacts to various businesses, and finally gives the cost per employee ratio to see if the proposed revision will have disproportional impacts on small businesses. The cost per employee ratio is directly calculated from the dangerous waste survey data. All data are annual data.

2.1 Transportation Storage and Disposal Site (TSD)

Partial Closures - WAC 173-303-400 (3)(c)(ix) and 173-400-610 (3)(c), this change would require a TSD facility to notify ecology when they begin to close an individual unit (tank, container, or incinerator unit) rather than waiting to notify ecology when the TSD begins closure for the entire facility. The change applies to both interim status and final status facilities.

Documenting "knowledge" - WAC 173-303-040 Definition of knowledge and WAC 173-303-300, under the existing rule, an owner or operator of a TSD is required to obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste before they treat, store or dispose of it. The amendment:

- Clarifies that the analysis **MUST** (rather than may) include either existing published or documented data or analytical data from similar waste, or a combination of both.
- Clarifies what would constitute "knowledge" from a generator to complete the waste profile.
- States that the TSD has to confirm the reliability of the information through either a site visit, or through ensuring the analysis is based on appropriate and representative sampling or testing, or through a comparison of their process to a similar process.

From the dangerous waste survey, the additional costs for business to comply with the above rule revisions are negligible, and the impacts are proportionally distributed between big and small businesses.

2.2 Generator

Using knowledge for designating waste - WAC 173-303-040 (knowledge) and WAC 173-303-300, under the existing rule, a generator may use "knowledge" to designate their waste, and they must be able to demonstrate that the knowledge they used is sufficient. TSDs are currently required to obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste before they treat, store or dispose of it. A proposed rule for TSDs would require them to have copies of existing published or documented data or analytical data from similar waste, or a combination of both when the generator has used knowledge to designate their waste. Knowledge is being defined as "there is sufficient information about both the waste constituents and the process generating a waste to reliably substitute for direct testing of the waste. Such information must include the chemical, physical, and/or biological characteristics of the waste. (For example, if all chemical constituents used in an industrial process generating a waste are known and the formation of the waste byproducts from that industrial process are understood, that information may be sufficient without direct laboratory analysis to describe the waste for safe management under this chapter.)".

Marking packages of dangerous waste - WAC 173-303-190 (5)(b): This change removes a gap in the existing labeling requirements. A generator would be required to mark all packages of dangerous waste in preparation for transport. The marking requirement is being changed from packages of one hundred ten gallons or less to one thousand gallons or less. This means that packages between one hundred ten and one thousand gallons would now have to be marked.

The cost per employee can be calculated from the survey. For big business it is \$3.92 per employee, while for small business it is \$5.89 per employee. So there will be disproportional impacts on small business.

2.3 Fertilizer - WAC 173-303-071 (3)(oo) and (pp), and 173-303-505(1): Ecology is providing three new fertilizer cost savings.

- If a fertilizer has already been registered in Washington two or more times, additional testing and fertilizer manufacturing description information would not be required unless the contents or process change.
- If a generator locates a fertilizer manufacturer who can use zinc from a recycled hazardous secondary material, then the zinc waste would be excluded for the generator.
- Fertilizers using the zinc are excluded as long as they meet certain contaminant limits.

Ecology believes these proposed rule revisions will benefit those required to comply, so there is no disproportional cost impact on small business.

2.4 Mercury (Universal Waste Rule) WAC 173-303-040, 173-303-077, 173-303-400 (2)(c), 173-303-573, 173-303-600(3), and 173-303-800 (7)(c): Mercury-containing equipment would move to streamlined universal waste man-

agement rather than being subject to all the requirements of the dangerous waste rules.

- The mercury waste would not have to be counted toward waste generation totals or manifested offsite. It could be accumulated on-site for up to one year. While the waste must still go to a TSD or recycler:
- Some generators may be able to shift from being a large to a medium, or a medium to small quantity generator.
- Some generators may be able to have reduced transportation costs under universal waste handling.

Generally, the proposed rule revision will result in cost saving for both big and small business.

2.5 Used Oil - WAC 173-303-515(13): Ecology would be able to require anyone to test their used oil to determine if it is on-specification, if it contains a listed hazardous waste, or if it cannot be managed as used oil. Under this new authority, ecology inspectors would be able to ask for a reduced set of tests. For example, the used oil could be tested using a chlorine compounds test rather than designation testing. From the survey, the possible cost for big business is \$0.31 per employee, and for small business, it is \$0.48 per employee. It suggests that this proposed rule revision will have disproportional impacts on small business.

2.6 Permit-by-Rule/Wastewater Treatment Unit - WAC 173-303-040 Knowledge and 173-303-802(5): In order to reduce costs for companies who own permit-by-rule wastewater treatment units (WAC 173-303-802(5)), ecology will allow these facilities to receive (federally regulated) hazardous wastewaters that have been generated offsite. They can already accept state-only waste from off-site. This change reflects an interpretation by USEPA that allows wastewater treatment units to be considered designated facilities as identified by a generator's uniform hazardous waste manifest. This would also benefit companies who could send their wastewaters to a related facility's wastewater treatment unit.

This change will be limited to wastewaters from off-site that are from a similar industry and have similar dangerous constituents to those in the wastewaters that are normally generated and treated by the host wastewater treatment unit. In other words, the host could only accept wastewaters that will be covered by permit requirements and will be effectively treated by the wastewater treatment facility. Businesses wanting to take advantage of this change should plan to do so when their wastewater discharge permit is up for renewal. What this change will not do is open up opportunities for businesses to operate under permit by rule and receive wastewater from unrelated off-site sources. The potential receiving facility must have a wastewater treatment unit that is designed to treat wastewaters that are generated on-site before it is eligible to receive similar wastewaters from off-site generated by their associated businesses.

Industries or businesses that would benefit from this change include the aerospace and petroleum refinery industries as well as some government facilities. The dangerous waste survey shows us that there are almost negligible impacts on small business, while there would be cost saving impacts to big business. So it would not impose disproportional impacts on small business.

PROPOSED

2.7 Financial Responsibility requirements WAC 173-303-120 (3) and (4), 173-303-515(9), 173-303-610, and 173-303-620: In order to assure that owners and operators of hazardous waste recycling or used oil processing/refining facilities responsible for waste removal, disposal and decontamination of equipment and structures, ecology intends to apply closure and financial assurance requirements for treatment, storage, and disposal units to equipment and structures that are used to reclaim, reuse or recycle hazardous wastes or process used oil. The increased financial responsibility requirements will:

- Require that off-site recyclers and used oil recyclers meet closure and the financial responsibility requirements.
- Preclude companies from using performance bonds.
- Require companies using a financial test to have \$20 millions in assets.

This financial responsibility requirement will impose disproportional impacts on small business. For small business, it is \$3657 per employee; while for big business, it is \$89 per employee.

3. ACTIONS TAKEN TO REDUCE THE IMPACT OF THE RULE ON SMALL BUSINESS: The analysis above shows that not all dangerous waste related industries will be impacted by the proposed rule revision. For those that are impacted, some have proportional impacts between big and small business, and some will be cost saving. From the cost per employee ratio derived from the survey, this analysis shows that only small business in the TSD (financial assurance), generators, and used oil categories will have disproportional cost impacts.

RCW 19.85.030(2) requires: *Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW 19.85.040, the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses.* To comply with this requirement, the proposed rule revision provides some cost saving measures to mitigate the impacts to small business. Methods to reduce the cost on small businesses may include the following (a) through (f), which are summarized as follows:

(a) *Reducing, modifying, or eliminating substantive regulatory requirements:* The mercury and fertilizer components of the rule amendments will reduce substantive requirements. Substantive requirements for post-closure plans (WAC 173-303-610(8)) and financial responsibility (WAC 173-303-620(6)) were not applied to recyclers and used oil processors.

(b) *Simplifying, reducing, or eliminating record-keeping and reporting requirements:* The mercury and fertilizer components of the rule amendments will indirectly reduce record keeping and reporting.

(c) *Reducing the frequency of inspections:* This is not feasible. EPA authorizes ecology to administer major portions of the federal program and ecology has agreed to specific levels of inspections.

(d) *Delaying compliance timetables:* Closure funding can be phased in over a three year period following ecology approval of closure plans. Companies will have seventy-two rather than twenty-four hours to temporarily hold wastes into recycling so that they will not be considered "stored" and subject to hazardous waste permitting.

(e) *Reducing or modifying fine schedules for noncompliance:* Ecology will consider the economic impact of hazard waste fines on small businesses as a mitigating factor in its compliance assurance policy (HWTR Policy 3-1, revised January 2004). The basic process of establishing penalties involves: 1) Determining that a penalty is the appropriate response; 2) Classifying the violations that become the basis of a penalty as major, moderate or minor; 3) Establishing the penalty amount for each violation; 4) Applying mitigating factors (these include degree of threat to human health or the environment, history of compliance, and small business incentives).

(f) *Any other mitigation techniques:* The permit by rule amendments will create cost savings for some companies and new earnings for others. Ecology will provide guidelines, model closure plans, and on-site assistance on closure plans, closure cost estimating, and coordination on pollution liability coverage and financial assurance for closure.

4. INVOLVEMENT OF SMALL BUSINESS IN THE DEVELOPMENT OF THE PROPOSED RULE: In the rule making process, all businesses, including the small ones, are invited to give comment on the proposed rule. Ecology also sent a draft version of the rule language out for public review and comment, and advertised via Shoptalk- a publication that goes out to more than 20,000 people, many are small businesses. Ecology also has an electronic listserve that sent out notices inviting review and comment. All these measures ensure that small businesses are fully involved in developing the proposed rule revision. Used oil facilities and recyclers were involved very early on in development of the changes that will impact them through the outreach conducted on the Hazardous Waste Facilities Initiative.

5. THE NAIC CODE OF COMPLIANCE INDUSTRY: NAIC codes of industries likely required to comply with the proposed rule revision are listed below.

1121	2362	3119	3254	3315	3341	3391	4245	4461	4841	4881	5161	5323	6223	8129
1123	2371	3121	3255	3321	3342	3399	4246	4471	4842	4882	5171	5324	6231	8131
1131	2372	3132	3256	3323	3343	4231	4247	4481	4851	4883	5173	5413	6232	8132
1132	2373	3133	3259	3324	3344	4232	4249	4483	4852	4884	5182	5611	6241	8134
1133	2379	3211	3261	3325	3345	4233	4411	4511	4853	4885	5239	5612	6243	8141
1151	2381	3212	3262	3327	3361	4234	4412	4521	4854	4911	5242	5615	7113	9211
1153	2382	3219	3273	3328	3363	4235	4413	4529	4855	4921	5251	5617	7121	9251
2123	2383	3221	3274	3329	3364	4236	4422	4532	4862	4922	5311	5619	7131	9261
2131	3113	3222	3279	3331	3365	4237	4431	4533	4869	4931	5312	5629	8111	9281
2211	3114	3241	3312	3332	3366	4238	4441	4539	4871	5111	5313	6111	8112	

2212	3115	3251	3314	3334	3372	4242	4442	4821	4872	5112	5321	6221	8122	
2213	3116	3253	3315	3339	3379	4244	4451	4832	4879	5121	5322	6222	8123	

A copy of the statement may be obtained by contacting Patricia Hervieux, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6756, fax (360) 407-6715, e-mail pher461@ecy.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Patricia Hervieux, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6756, fax (360) 407-6715, e-mail pher461@ecy.wa.gov.

June 25, 2004

Polly Zehm
Assistant Director

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-010 Purpose. This regulation implements chapter 70.105 RCW, the Hazardous Waste Management Act of 1976 as amended, and implements, in part, chapters 70.105A, 70.105D, and 15.54 RCW, and Subtitle C of Public Law 94-580, the Resource Conservation and Recovery Act, which the legislature has empowered the department to implement. The purposes of this regulation are to:

(1) Designate those solid wastes which are dangerous or extremely hazardous to the public health and environment;

Note: The terms public health and human health are used in this chapter interchangeably.

(2) Provide for surveillance and monitoring of dangerous and extremely hazardous wastes until they are detoxified, reclaimed, neutralized, or disposed of safely;

(3) Provide the form and rules necessary to establish a system for manifesting, tracking, reporting, monitoring, recordkeeping, sampling, and labeling dangerous and extremely hazardous wastes;

(4) Establish the siting, design, operation, closure, post-closure, financial, and monitoring requirements for dangerous and extremely hazardous waste transfer, treatment, storage, and disposal facilities;

(5) Establish design, operation, and monitoring requirements for managing the state's extremely hazardous waste disposal facility;

(6) Establish and administer a program for permitting dangerous and extremely hazardous waste management facilities; and

(7) Encourage recycling, reuse, reclamation, and recovery to the maximum extent possible.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-030 Abbreviations. The following abbreviations are used in this regulation.

- ((1)) ASTM - American Society for Testing Materials
- ((2)) APHA - American Public Health Association
- ((3)) CDC - Center for Disease Control
- ((4)) CFR - Code of Federal Regulations
- ((5)) DOT - Department of Transportation

- ((6)) °C - degrees Celsius
- ((7)) DW - dangerous waste
- ((8)) DWS - drinking water standards of the Safe Drinking Water Act
- ((9)) EHW - extremely hazardous waste
- ((10)) EP - extraction procedure
- ((11)) EPA - Environmental Protection Agency
- ((12)) °F - degrees Fahrenheit
- ((13)) g - gram
- ((14)) IARC - International Agency for Research on Cancer
- IFC - International Fire Code
- ((15)) kg - kilogram (one thousand grams)
- ((16)) L - liter
- ((17)) lb - pound
- ((18)) LC₅₀ - median lethal concentration
- ((19)) LD₅₀ - median lethal dose
- ((20)) M - molar (gram molecular weights per liter of solution)
- ((21)) mg - milligram (one thousandth of a gram)
- ((22)) NFPA - National Fire Protection Association
- ((23)) NIOSH - National Institute for Occupational Safety and Health
- ((24)) pH - negative logarithm of the hydrogen ion concentration
- ((25)) POTW - publicly owned treatment works
- ((26)) ppm - parts per million (weight/weight)
- ((27)) RCRA - Resource Conservation and Recovery Act
- ((28)) RCW - Revised Code of Washington
- ((29)) TSD facility - treatment, storage, or disposal facility
- ((30)) UBC - Uniform Building Code
- ((31)) UFC - Uniform Fire Code
- ((32)) USCG - United States Coast Guard
- ((33)) USGS - United States Geological Survey
- ((34)) WAC - Washington Administrative Code
- ((35)) % - percent
- ((36)) # - number

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-040 Definitions. When used in this chapter, the following terms have the meanings given below.

"Aboveground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

"Active life" of a facility means the period from the initial receipt of dangerous waste at the facility until the department receives certification of final closure.

"Active portion" means that portion of a facility which is not a closed portion, and where dangerous waste recycling, reuse, reclamation, transfer, treatment, storage or disposal operations are being or have been conducted after:

PROPOSED

The effective date of the waste's designation by 40 CFR Part 261; and

March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261. (See also "closed portion" and "inactive portion.")

"Active range" means a military range that is currently in service and is being regularly used for range activities.

"Acute hazardous waste" means dangerous waste sources (listed in WAC 173-303-9904) F020, F021, F022, F023, F026, or F027, and discarded chemical products (listed in WAC 173-303-9903) that are identified with a dangerous waste number beginning with a "P", including those wastes mixed with source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954. The abbreviation "AHW" will be used in this chapter to refer to those dangerous and mixed wastes which are acute hazardous wastes. Note - the terms acute and acutely are used interchangeably.

"Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of dangerous waste from its point of generation to a storage or treatment tank(s), between dangerous waste storage and treatment tanks to a point of disposal on-site, or to a point of shipment for disposal off-site.

"Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

"Batch" means any waste which is generated less frequently than once a month.

"Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Berm" means the shoulder of a dike.

"Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: Process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least sixty percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least seventy-five percent of the recovered energy, calculated on an annual basis. In this calculation, no credit will be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

The unit is one which the department has determined, on a case-by-case basis, to be a boiler, after considering the standards in WAC 173-303-017(6).

"By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

"Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

"Carcinogenic" means a material known to contain a substance which has sufficient or limited evidence as a human or animal carcinogen as listed in both IARC and either IRIS or HEAST.

"Chemical agents and chemical munitions" are defined as in 50 U.S.C. section 1521 (j)(1).

"Cleanup-only facility" means a site, including any contiguous property owned or under the control of the owner or operator of the site, where the owner or operator is or will be treating, storing, or disposing of remediation waste, including dangerous remediation waste, and is not, has not and will not be treating, storing or disposing of dangerous waste that is not remediation waste. A cleanup-only facility is not a "facility" for purposes of corrective action under WAC 173-303-646.

"Closed portion" means that portion of a facility which an owner or operator has closed, in accordance with the approved facility closure plan and all applicable closure requirements.

"Closure" means the requirements placed upon all TSD facilities to ensure that all such facilities are closed in an acceptable manner (see also "post-closure").

"Commercial chemical product or manufacturing chemical intermediate" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient.

"Commercial fertilizer" means any substance containing one or more recognized plant nutrients and which is used for its plant nutrient content and/or which is designated for use or claimed to have value in promoting plant growth, and includes, but is not limited to, limes, gypsum, and manipulated animal manures and vegetable compost. The commercial fertilizer must be registered with the state or local agency regulating the fertilizer in the locale in which the fertilizer is being sold or applied.

"Compliance procedure" means any proceedings instituted pursuant to the Hazardous Waste Management Act as amended in 1980 and 1983, and chapter 70.105A RCW, or regulations issued under authority of state law, which seeks to require compliance, or which is in the nature of an enforcement action or an action to cure a violation. A compliance procedure includes a notice of intention to terminate a permit pursuant to WAC 173-303-830(5), or an application in the state superior court for appropriate relief under the Hazardous Waste Management Act. A compliance procedure is considered to be pending from the time a notice of violation or of intent to terminate a permit is issued or judicial proceedings are begun, until the department notifies the owner or operator in writing that the violation has been corrected or that the procedure has been withdrawn or discontinued.

"Component" means either the tank or ancillary equipment of a tank system.

"Constituent" or "dangerous waste constituent" means a chemically distinct component of a dangerous waste stream or mixture.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of WAC 173-303-695.

"Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of dangerous waste or dangerous waste constituents which could threaten human health or environment.

"Contract" means the written agreement signed by the department and the state operator.

~~("Corrective action management unit" means an area that is used to treat, store or dispose only remediation wastes for implementing corrective action under WAC 173-303-646 or other clean up activities.)~~

"Corrosion expert" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"Dangerous waste constituents" means those constituents listed in WAC 173-303-9905 and any other constituents that have caused a waste to be a dangerous waste under this chapter.

"Dangerous waste management unit" is a contiguous area of land on or in which dangerous waste is placed, or the largest area in which there is a significant likelihood of mixing dangerous waste constituents in the same area. Examples of dangerous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area.

A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

"Dangerous wastes" means those solid wastes designated in WAC 173-303-070 through 173-303-100 as dangerous, or extremely hazardous or mixed waste. As used in this chapter, the words "dangerous waste" will refer to the full universe of wastes regulated by this chapter. The abbreviation "DW" will refer only to that part of the regulated universe which is not extremely hazardous waste. (See also "extremely hazardous waste," "hazardous waste," and "mixed waste" definitions.)

"Debris" means solid material exceeding a 60 mm particle size that is intended for disposal and that is: A manufactured object; or plant or animal matter; or natural geologic material. However, the following materials are not debris: Any material for which a specific treatment standard is provided in 40 CFR Part 268 Subpart D (incorporated by reference in WAC 173-303-140 (2)(a)); process residuals such as smelter slag and residues from the treatment of waste, wastewater, sludges, or air emission residues; and intact containers of hazardous waste that are not ruptured and that retain at least seventy-five percent of their original volume. A mixture of debris that has not been treated to the standards provided by 40 CFR 268.45 and other material is subject to regulation as debris if the mixture is comprised primarily of debris, by volume, based on visual inspection.

"Department" means the department of ecology.

"Dermal LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight which, when dermally (skin) applied for 24 hours, within 14 days kills half of a group of ten rabbits each weighing between 2.0 and 3.0 kilograms.

"Designated facility" means a dangerous waste treatment, storage, or disposal facility that has received a permit (or interim status) in accordance with the requirements of this chapter, has received a permit (or interim status) from another state authorized in accordance with 40 CFR Part 271, has received a permit (or interim status) from EPA in accordance with 40 CFR Part 270, has a permit by rule under WAC 173-303-802(5), or is regulated under WAC 173-303-120 (4)(c) or 173-303-525 when the dangerous waste is to be recycled, and that has been designated on the manifest pursuant to WAC 173-303-180(1). If a waste is destined to a facility in an authorized state that has not yet obtained authorization to regulate that particular waste as dangerous, then the designated facility must be a facility allowed by the receiving state to accept such waste. The following are designated facilities only for receipt of state-only waste; they cannot receive federal hazardous waste from off-site: Facilities ~~((with permit by rule under WAC 173-303-802(5)(a) and facilities))~~ operating under WAC 173-303-500 (2)(c).

"Designation" is the process of determining whether a waste is regulated under the dangerous waste lists, WAC 173-303-080 through 173-303-082; or characteristics, WAC 173-303-090; or criteria, WAC 173-303-100. The procedures for designating wastes are in WAC 173-303-070. A waste that has been designated as a dangerous waste may be either DW or EHW.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste,

except those management activities described in WAC 173-303-573 (9)(a), (b) and (c) and 173-303-573 (20)(a), (b) and (c). A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

"Dike" means an embankment or ridge of natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other substances.

"Dioxins and furans (D/F)" means tetra, penta, hexa, hepta, and octa-chlorinated dibenzo dioxins and furans.

"Director" means the director of the department of ecology or his designee.

"Discharge" or "dangerous waste discharge" means the accidental or intentional release of hazardous substances, dangerous waste or dangerous waste constituents such that the substance, waste or a waste constituent may enter or be emitted into the environment.

"Disposal" means the discharging, discarding, or abandoning of dangerous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned. This includes the discharge of any dangerous wastes into or on any land, air, or water.

"Domestic sewage" means untreated sanitary wastes that pass through a sewer system to a publicly owned treatment works (POTW) for treatment.

"Draft permit" means a document prepared under WAC 173-303-840 indicating the department's tentative decision to issue or deny, modify, revoke and reissue, or terminate a permit. A notice of intent to terminate or deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination as discussed in WAC 173-303-830 is not a draft permit.

"Drip pad" is an engineered structure consisting of a curbed, free-draining base, constructed of nonearthen materials and designed to convey preservative kick-back or drip-page from treated wood, precipitation, and surface water runoff to an associated collection system at wood preserving plants.

"Elementary neutralization unit" means a device which:

Is used for neutralizing wastes which are dangerous wastes only because they exhibit the corrosivity characteristics defined in WAC 173-303-090 or are listed in WAC 173-303-081, or in 173-303-082 only for this reason; and

Meets the definition of tank, tank system, container, transport vehicle, or vessel.

"Enforceable document" means an order, consent decree, plan or other document that meets the requirements of 40 CFR 271.16(e) and is issued by the director to apply alternative requirements for closure, post-closure, ground water monitoring, corrective action or financial assurance under WAC 173-303-610 (1)(d), 173-303-645 (1)(e), or 173-303-620 (8)(d) or, as incorporated by reference at WAC 173-303-400, 40 CFR 265.90(f), 265.110(d), or 265.140(d). Enforceable documents include, but are not limited to, closure plans and post-closure plans, permits issued under chapter 70.105 RCW, orders issued under chapter 70.105 RCW and orders and consent decrees issued under chapter 70.105D RCW.

"Environment" means any air, land, water, or ground water.

"EPA/state identification number" or "EPA/state ID#" means the number assigned by EPA or by the department of ecology to each generator, transporter, and TSD facility.

"Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of dangerous waste and that is in operation, or for which installation has commenced on or prior to February 3, 1989. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction of the site or installation of the tank system to be completed within a reasonable time.

"Excluded scrap metal" is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

"Existing TSD facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261. A facility has commenced construction if the owner or operator has obtained permits and approvals necessary under federal, state, and local statutes, regulations, and ordinances and either:

A continuous on-site, physical construction program has begun; or

The owner or operator has entered into contractual obligation, which cannot be cancelled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

"Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

"Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncon-

trollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

"Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD-certified civilian or contractor personnel; and other federal, state, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.

"Extremely hazardous waste" means those dangerous and mixed wastes designated in WAC 173-303-100 as extremely hazardous. The abbreviation "EHW" will be used in this chapter to refer to those dangerous and mixed wastes which are extremely hazardous. (See also "dangerous waste" and "hazardous waste" definitions.)

"Facility" means:

- All contiguous land, and structures, other appurtenances, and improvements on the land used for recycling, reusing, reclaiming, transferring, storing, treating, or disposing of dangerous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combination of them). Unless otherwise specified in this chapter, the terms "facility," "treatment, storage, disposal facility," "TSD facility," "dangerous waste facility" or "waste management facility" are used interchangeably.

- For purposes of implementing corrective action under WAC (~~(173-303-646(2) or (3))~~) 173-303-64620 or 173-303-64630, "facility" also means all contiguous property under the control of an owner or operator seeking a permit under chapter 70.105 RCW or chapter 173-303 WAC and includes the definition of facility at RCW 70.105D.020(4).

"Facility mailing list" means the mailing list for a facility maintained by the department in accordance with WAC 173-303-840 (3)(e)(I)(D).

"Final closure" means the closure of all dangerous waste management units at the facility in accordance with all applicable closure requirements so that dangerous waste management activities under WAC 173-303-400 and 173-303-600 through 173-303-670 are no longer conducted at the facility. Areas only subject to generator standards WAC 173-303-170 through 173-303-230 need not be included in final closure.

"Fish LC50" means the concentration that will kill fifty percent of the exposed fish in a specified time period. For book designation, LC50 data must be derived from an exposure period greater than or equal to twenty-four hours. A hierarchy of species LC50 data should be used that includes (in decreasing order of preference) salmonids, fathead minnows (*Pimephales promelas*), and other fish species. For the ninety-six-hour static acute fish toxicity test, described in WAC 173-303-110 (3)(b)(i), coho salmon (*Oncorhynchus kisutch*), rainbow trout (*Oncorhynchus mykiss*), or brook trout (*Salvelinus fontinalis*) must be used.

"Food chain crops" means tobacco, crops grown for human consumption, and crops grown to feed animals whose products are consumed by humans.

"Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

"Fugitive emissions" means the emission of contaminants from sources other than the control system exit point. Material handling, storage piles, doors, windows and vents are typical sources of fugitive emissions.

"Generator" means any person, by site, whose act or process produces dangerous waste or whose act first causes a dangerous waste to become subject to regulation.

"Genetic properties" means those properties which cause or significantly contribute to mutagenic, teratogenic, or carcinogenic effects in man or wildlife.

"Ground water" means water which fills voids below the land surface and in the earth's crust.

"Halogenated organic compounds" (HOC) means any organic compounds which, as part of their composition, include one or more atoms of fluorine, chlorine, bromine, or iodine which is/are bonded directly to a carbon atom. This definition does not apply to the federal land disposal restrictions of 40 CFR Part 268 which are incorporated by reference at WAC 173-303-140 (2)(a). Note: Additional information on HOCs may be found in *Chemical Testing Methods for Designating Dangerous Waste*, Ecology Publication #97-407, revised December 2004.

"Hazardous debris" means debris that contains a hazardous waste listed in WAC 173-303-9903 or 173-303-9904, or that exhibits a characteristic of hazardous waste identified in WAC 173-303-090.

"Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC 173-303-090 or 173-303-100.

"Hazardous wastes" means those solid wastes designated by 40 CFR Part 261, and regulated as hazardous and/or mixed waste by the United States EPA. This term will never be abbreviated in this chapter to avoid confusion with the abbreviations "DW" and "EHW." (See also "dangerous waste" and "extremely hazardous waste" definitions.)

"Home scrap metal" is scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

"Ignitable waste" means a dangerous waste that exhibits the characteristic of ignitability described in WAC 173-303-090(5).

"Inactive portion" means that portion of a facility which has not recycled, treated, stored, or disposed dangerous waste after:

The effective date of the waste's designation, for wastes designated under 40 CFR Part 261; and

March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

"Inactive range" means a military range that is not currently being used, but that is still under military control and considered by the military to be a potential range area, and

that has not been put to a new use that is incompatible with range activities.

"Incinerator" means any enclosed device that:

Uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or

Meets the definition of infrared incinerator or plasma arc incinerator.

"Incompatible waste" means a dangerous waste which is unsuitable for placement in a particular device or facility because it may corrode or decay the containment materials, or is unsuitable for mixing with another waste or material because the mixture might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, fumes, mists, or gases, or flammable fumes or gases.

"Independent qualified registered professional engineer" means a person who is licensed by the state of Washington, or a state which has reciprocity with the state of Washington as defined in RCW 18.43.100, and who is not an employee of the owner or operator of the facility for which construction or modification certification is required. A qualified professional engineer is an engineer with expertise in the specific area for which a certification is given.

"Industrial-furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy: Cement kilns; lime kilns; aggregate kilns; phosphate kilns; blast furnaces; smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters and foundry furnaces); titanium dioxide chloride process oxidation reactors; coke ovens; methane reforming furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; pulping liquor recovery furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; and halogen acid furnaces (HAFs) for the production of acid from halogenated dangerous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process, and, except for dangerous waste burned as fuel, dangerous waste fed to the furnace has a minimum halogen content of 20% as-generated. The department may decide to add devices to this list on the basis of one or more of the following factors:

The device is designed and used primarily to accomplish recovery of material products;

The device burns or reduces secondary materials as ingredients in an industrial process to make a material product;

The device burns or reduces secondary materials as effective substitutes for raw materials in processes using raw materials as principal feedstocks;

The device burns or reduces raw materials to make a material product;

The device is in common industrial use to produce a material product; and

Other factors, as appropriate.

"Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Inground tank" means a device meeting the definition of "tank" in this section whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

"Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the waste or reagents used to treat the waste.

"Installation inspector" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

"Interim status permit" means a temporary permit given to TSD facilities which qualify under WAC 173-303-805.

"Knowledge" means there is sufficient information about both the waste constituents and the process generating a waste to reliably substitute for direct testing of the waste. Such information must include the chemical, physical, and/or biological characteristics of the waste. (For example, if all chemical constituents used in an industrial process generating a waste are known and the formation of the waste by-products from that industrial process are understood, that information may be sufficient without direct laboratory analysis to describe the waste for safe management under this chapter.)

Note: Knowledge as defined here is for the purpose of complying with WAC 173-303-070 (3)(c) and 173-303-300(2).

"Lamp," also referred to as "universal waste lamp" means any type of high or low pressure bulb or tube portion of an electric lighting device that generates light through the discharge of electricity either directly or indirectly as radiant energy. Universal waste lamps include, but are not limited to, fluorescent, mercury vapor, metal halide, high-pressure sodium and neon. As a reference, it may be assumed that four, four-foot, one-inch diameter unbroken fluorescent tubes are equal to 2.2 pounds in weight.

"Land disposal" means placement in or on the land, except in a corrective action management unit or staging pile, and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault, or bunker intended for disposal purposes.

"Landfill" means a disposal facility, or part of a facility, where dangerous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, or an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit.

"Land treatment" means the practice of applying dangerous waste onto or incorporating dangerous waste into the soil surface so that it will degrade or decompose. If the waste will remain after the facility is closed, this practice is disposal.

"Large quantity handler of universal waste" means a universal waste handler (as defined in this section) who accumu-

lates 11,000 pounds or more total of universal waste (batteries, thermostats, mercury-containing equipment, and lamps calculated collectively) and/or who accumulates more than 2,200 pounds of lamps at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 11,000 pounds or more total of universal waste and/or 2,200 pounds of lamps is accumulated.

"Leachable inorganic waste" means solid dangerous waste (i.e., passes paint filter test) that is not an organic/carbonaceous waste and exhibits the toxicity characteristic (dangerous waste numbers D004 to D011, only) under WAC 173-303-090(8).

"Leachate" means any liquid, including any components suspended in the liquid, that has percolated through or drained from dangerous waste.

"Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of dangerous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of dangerous waste into the secondary containment structure.

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Liner" means a continuous layer of man-made or natural materials which restrict the escape of dangerous waste, dangerous waste constituents, or leachate through the sides, bottom, or berms of a surface impoundment, waste pile, or landfill.

"Major facility" means a facility or activity classified by the department as major.

"Manifest" means the shipping document, prepared in accordance with the requirements of WAC 173-303-180, which is used to identify the quantity, composition, origin, routing, and destination of a dangerous waste while it is being transported to a point of transfer, disposal, treatment, or storage.

"Manufacturing process unit" means a unit which is an integral and inseparable portion of a manufacturing operation, processing a raw material into a manufacturing intermediate or finished product, reclaiming spent materials or reconditioning components.

"Marine terminal operator" means a person engaged in the business of furnishing wharfage, dock, pier, warehouse, covered and/or open storage spaces, cranes, forklifts, bulk loading and/or unloading structures and landings in connection with a highway or rail carrier and a water carrier. A marine terminal operator includes, but is not limited to, terminals owned by states and their political subdivisions; railroads who perform port terminal services not covered by their line haul rates; common carriers who perform port terminal services; and warehousemen and stevedores who operate port terminal facilities.

"Mercury-containing equipment" means a device or part of a device (excluding batteries, thermostats, and lamps) that contains elemental mercury necessary for its operation. Examples of mercury-containing equipment include thermometers, manometers, and electrical switches.

"Micronutrient fertilizer" means a produced or imported commercial fertilizer that contains commercially valuable concentrations of micronutrients but does not contain commercially valuable concentrations of nitrogen, phosphoric acid, available phosphorous, potash, calcium, magnesium, or sulfur. Micronutrients are boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc.

"Military" means the Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE), or other parties under contract or acting as an agent for the foregoing, who handle military munitions.

"Military munitions" means all ammunition products and components produced or used by or for the U.S. Department of Defense or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes: Confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include nonnuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

"Military range" means designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

"Miscellaneous unit" means a dangerous waste management unit where dangerous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR Part 146, containment building, corrective action management unit, temporary unit, staging pile, or unit eligible for a research, development, and demonstration permit under WAC 173-303-809.

"Mixed waste" means a dangerous, extremely hazardous, or acutely hazardous waste that contains both a non-radioactive hazardous component and, as defined by 10 CFR 20.1003, source, special nuclear, or by-product material sub-

ject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of dangerous waste and for which installation has commenced after February 3, 1989; except, however, for purposes of WAC 173-303-640 (4)(g)(ii) and 40 CFR 265.193 (g)(2) as adopted by reference in WAC 173-303-400(3), a new tank system is one for which construction commences after February 3, 1989. (See also "existing tank system.")

"New TSD facility" means a facility which began operation or for which construction commenced after November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

"NIOSH registry" means the registry of toxic effects of chemical substances which is published by the National Institute for Occupational Safety and Health.

"Nonsudden accident" or "nonsudden accidental occurrence" means an unforeseen and unexpected occurrence which takes place over time and involves continuous or repeated exposure.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage which the owner or operator neither expected nor intended to occur.

"Off-specification used oil fuel" means used oil fuel that exceeds any specification level described in Table 1 in WAC 173-303-515.

"Onground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

"On-site" means the same or geographically contiguous property which may be divided by public or private right of way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Noncontiguous properties owned by the same person but connected by a right of way which they control and to which the public does not have access, are also considered on-site property.

"Operator" means the person responsible for the overall operation of a facility. (See also "state operator.")

"Oral LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight, when orally administered, which, within 14 days, kills half a group of ten or more white rats each weighing between 200 and 300 grams.

"Organic/carbonaceous waste" means a dangerous waste that contains combined concentrations of greater than ten percent organic/carbonaceous constituents in the waste; organic/carbonaceous constituents are those substances that contain carbon-hydrogen, carbon-halogen, or carbon-carbon chemical bonding.

"Partial closure" means the closure of a dangerous waste management unit in accordance with the applicable closure requirements of WAC 173-303-400 and 173-303-600 through ((173-303-670)) 173-303-695 at a facility that contains other active dangerous waste management units. For example, partial closure may include the closure of a tank

(including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other dangerous waste management unit, while other units of the same facility continue to operate.

"Permit" means an authorization which allows a person to perform dangerous waste transfer, storage, treatment, or disposal operations, and which typically will include specific conditions for such facility operations. Permits must be issued by one of the following:

The department, pursuant to this chapter;

United States EPA, pursuant to 40 CFR Part 270; or

Another state authorized by EPA, pursuant to 40 CFR Part 271.

"Permit-by-rule" means a provision of this chapter stating that a facility or activity is deemed to have a dangerous waste permit if it meets the requirements of the provision.

"Persistence" means the quality of a material that retains more than half of its initial activity after one year (365 days) in either a dark anaerobic or dark aerobic environment at ambient conditions. Persistent compounds are either halogenated organic compounds (HOC) or polycyclic aromatic hydrocarbons (PAH) as defined in this section.

"Person" means any person, firm, association, county, public or municipal or private corporation, agency, or other entity whatsoever.

"Pesticide" means but is not limited to: Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life, or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the department of agriculture may declare to be a pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; any substance or mixture of substances intended to be used as spray adjuvant; and, any other substance intended for such use as may be named by the department of agriculture by regulation. Herbicides, fungicides, insecticides, and rodenticides are pesticides for the purposes of this chapter.

"Pile" means any noncontainerized accumulation of solid, nonflowing dangerous waste that is used for treatment or storage.

"Plasma arc incinerator" means any enclosed device using a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Point source" means any confined and discrete conveyance from which pollutants are or may be discharged. This term includes, but is not limited to, pipes, ditches, channels, tunnels, wells, cracks, containers, rolling stock, concentrated animal feeding operations, or watercraft, but does not include return flows from irrigated agriculture.

"Polycyclic aromatic hydrocarbons" (PAH) means those hydrocarbon molecules composed of two or more fused benzene rings. For purposes of this chapter, the PAHs of concern for designation are: Acenaphthene, acenaphthylene, fluorene, anthracene, fluoranthene, phenanthrene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, pyrene, chrysene, benzo(a)pyrene, dibenz(a,h)-anthracene, indeno(1,2,3-c,d)pyrene, benzo(g,h,i)perylene,

dibenzo [(a,e), (a,h), (a,i), and (a,l)] pyrenes, and dibenzo(a,j) acridine.

"Post-closure" means the requirements placed upon disposal facilities (e.g., landfills, impoundments closed as disposal facilities, etc.) after closure to ensure their environmental safety for a number of years after closure. (See also "closure.")

"Processed scrap metal" is scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (that is, sorted), and fines, drosses and related materials that have been agglomerated. Note: Shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (WAC 173-303-071 (3)(gg)).

"Prompt scrap metal" is scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

"Publicly owned treatment works" or "POTW" means any device or system, owned by the state or a municipality, which is used in the treatment, recycling, or reclamation of municipal sewage or liquid industrial wastes. This term includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW.

"Qualified ground water scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in ground water hydrology and related fields to make sound professional judgments regarding ground water monitoring and contaminant fate and transport. Sufficient training and experience may be demonstrated by state registration, professional certifications, or completion of accredited university courses.

"Reactive waste" means a dangerous waste that exhibits the characteristic of reactivity described in WAC 173-303-090(7).

"Reclaim" means to process a material in order to recover useable products, or to regenerate the material. Reclamation is the process of reclaiming.

"Recover" means extract a useable material from a solid or dangerous waste through a physical, chemical, biological, or thermal process. Recovery is the process of recovering.

"Recycle" means to use, reuse, or reclaim a material.

"Recycling unit" is a contiguous area of land, structures and equipment where materials designated as dangerous waste or used oil are placed or processed in order to recover useable products or regenerate the original materials. For the purposes of this definition, "placement" does not mean "storage" when conducted within the provisions of WAC 173-303-120(4). A container, tank, or processing equipment alone does not constitute a unit; the unit includes containers, tanks or other processing equipment, their ancillary equipment and secondary containment system, and the land upon which they are placed.

"Registration number" means the number assigned by the department of ecology to a transporter who owns or leases and operates a ten-day transfer facility within Washington state.

"Regulated unit" means any new or existing surface impoundment, landfill, land treatment area or waste pile that receives any dangerous waste after:

July 26, 1982, for wastes regulated by 40 CFR Part 261;

October 31, 1984 for wastes designated only by this chapter and not regulated by 40 CFR Part 261; or

The date six months after a waste is newly identified by amendments to 40 CFR Part 261 or this chapter which cause the waste to be regulated.

"Release" means any intentional or unintentional spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of dangerous wastes, or dangerous constituents as defined at WAC (~~(173-303-646 (1)(e))~~) 173-303-64610(4), into the environment and includes the abandonment or discarding of barrels, containers, and other receptacles containing dangerous wastes or dangerous constituents and includes the definition of release at RCW 70.105D.020(20).

"Remediation waste" means all solid and dangerous wastes, and all media (including ground water, surface water, soils, and sediments) and debris, that (~~contain listed dangerous wastes or that exhibit a dangerous waste characteristic or criteria when~~) are managed for implementing cleanup.

"Replacement unit" means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and that is subsequently reused to treat, store, or dispose of dangerous waste. "Replacement unit" does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with an approved closure plan or EPA or state approved corrective action.

"Representative sample" means a sample which can be expected to exhibit the average properties of the sample source.

"Reuse or use" means to employ a material either:

As an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

In a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

"Run-off" means any rainwater, leachate, or other liquid which drains over land from any part of a facility.

"Run-on" means any rainwater, leachate, or other liquid which drains over land onto any part of a facility.

"Satellite accumulation area" means a location at or near any point of generation where hazardous waste is initially accumulated in containers (during routine operations) prior to consolidation at a designated ninety-day accumulation area or storage area. The area must be under the control of the

operator of the process generating the waste or secured at all times to prevent improper additions of wastes into the satellite containers.

"Schedule of compliance" means a schedule of remedial measures in a permit including an enforceable sequence of interim requirements leading to compliance with this chapter.

"Scrap metal" means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

"Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility. This term does not include the treated effluent from a wastewater treatment plant.

"Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb of sludge treated on a wet-weight basis.

"Small quantity handler of universal waste" means a universal waste handler (as defined in this section) who does not accumulate 11,000 pounds or more total of universal waste (batteries, thermostats, mercury-containing equipment, and lamps, calculated collectively) and/or who does not accumulate more than 2,200 pounds of lamps at any time.

"Solid acid waste" means a dangerous waste that exhibits the characteristic of low pH under the corrosivity tests of WAC 173-303-090 (6)(a)(iii).

"Solid waste management unit" or "SWMU" means any discernible location at a facility, as defined for the purposes of corrective action, where solid wastes have been placed at any time, irrespective of whether the location was intended for the management of solid or dangerous waste. Such locations include any area at a facility at which solid wastes, including spills, have been routinely and systematically released. Such units include regulated units as defined by chapter 173-303 WAC.

"Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. *Sorb* means to either adsorb or absorb, or both.

"Special incinerator ash" means ash residues resulting from the operation of incineration or energy recovery facilities managing municipal solid waste from residential, commercial and industrial establishments, if the ash residues are designated as dangerous waste only by this chapter and not designated as hazardous waste by 40 CFR Part 261.

"Special waste" means any state-only dangerous waste that is solid only (nonliquid, nonaqueous, nongaseous), that is: Corrosive waste (WAC 173-303-090 (6)(b)(ii)), toxic waste that has Category D toxicity (WAC 173-303-100(5)), PCB waste (WAC 173-303-9904 under State Sources), or persistent waste that is not EHW (WAC 173-303-100(6)). Any solid waste that is regulated by the United States EPA as hazardous waste cannot be a special waste.

"Spent material" means any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

"Stabilization" and "solidification" means a technique that limits the solubility and mobility of dangerous waste constituents. Solidification immobilizes a waste through physical means and stabilization immobilizes the waste by bonding or chemically reacting with the stabilizing material.

"Staging pile" means an accumulation of solid, nonflowing, remediation waste that is not a containment building or a corrective action management unit and that is used for temporary storage of remediation waste for implementing corrective action under WAC 173-303-646 or other clean up activities.

"State-only dangerous waste" means a waste designated only by this chapter, chapter 173-303 WAC, and is not regulated as a hazardous waste under 40 CFR Part 261.

"State operator" means the person responsible for the overall operation of the state's extremely hazardous waste facility on the Hanford Reservation.

"Storage" means the holding of dangerous waste for a temporary period. "Accumulation" of dangerous waste, by the generator on the site of generation, is not storage as long as the generator complies with the applicable requirements of WAC 173-303-200 and 173-303-201.

"Sudden accident" means an unforeseen and unexpected occurrence which is not continuous or repeated in nature.

"Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serves to collect dangerous waste for transport to dangerous waste storage, treatment, or disposal facilities; except that as used in the landfill, surface impoundment, and waste pile rules, "sump" means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

"Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquid dangerous wastes or dangerous wastes containing free liquids. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

"Tank" means a stationary device designed to contain an accumulation of dangerous waste, and which is constructed primarily of nonearthen materials to provide structural support.

"Tank system" means a dangerous waste storage or treatment tank and its associated ancillary equipment and containment system.

"Temporary unit" means a tank or container that is not an accumulation unit under WAC 173-303-200 and that is used for temporary treatment or storage of remediation waste for implementing corrective action under WAC 173-303-646 or other clean up activities.

"TEQ" means toxicity equivalence, the international method of relating the toxicity of various dioxin/furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

"Thermal treatment" means the treatment of dangerous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the dangerous waste. Examples

of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of WAC 173-303-573 (9)(b)(ii) or (20)(b)(ii).

"TLM₅₆" means the same as "Aquatic LC₅₀."

"Totally enclosed treatment facility" means a facility for treating dangerous waste which is directly connected to a production process and which prevents the release of dangerous waste or dangerous waste constituents into the environment during treatment.

"Toxic" means having the properties to cause or to significantly contribute to death, injury, or illness of man or wildlife.

"Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, buildings, piers, and other similar areas where shipments of dangerous waste are held, consolidated, or transferred within a period of ten days or less during the normal course of transportation.

"Transport vehicle" means a motor vehicle, water vessel, or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, steamship, etc.) is a separate transport vehicle.

"Transportation" means the movement of dangerous waste by air, rail, highway, or water.

"Transporter" means a person engaged in the off-site transportation of dangerous waste.

"Travel time" means the period of time necessary for a dangerous waste constituent released to the soil (either by accident or intent) to enter any on-site or off-site aquifer or water supply system.

"Treatability study" means a study in which a dangerous waste is subjected to a treatment process to determine: Whether the waste is amenable to the treatment process; what pretreatment (if any) is required; the optimal process conditions needed to achieve the desired treatment; the efficiency of a treatment process for a specific waste or wastes; or the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of the exemptions contained in WAC 173-303-071 (3)(r) and (s), are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of dangerous waste.

"Treatment" means the physical, chemical, or biological processing of dangerous waste to make such wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume, with the exception of compacting, repackaging, and sorting as allowed under WAC 173-303-400(2) and 173-303-600(3).

"Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which dangerous wastes are degraded, transformed or immobilized.

"Triple rinsing" means the cleaning of containers in accordance with the requirements of WAC 173-303-160 (2)(b), containers.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

"Underground tank" means a device meeting the definition of "tank" in this section whose entire surface area is totally below the surface of and covered by the ground.

"Unexploded ordnance (UXO)" means military munitions that have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

"Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating dangerous waste without posing a threat of release of dangerous waste to the environment.

"Universal waste" means any of the following dangerous wastes that are subject to the universal waste requirements of WAC 173-303-573:

Batteries as described in WAC 173-303-573(2);

Thermostats as described in WAC 173-303-573(3);
(and)

Lamps as described in WAC 173-303-573(5); and
Mercury-containing equipment as described in WAC 173-303-573(4).

"Universal waste handler":

Means:

A generator (as defined in this section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

Does not mean:

A person who treats (except under the provisions of WAC 173-303-573 (9)(a), (b), or (c) or (20)(a), (b), or (c)) disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

"Unsaturated zone" means the zone between the land surface and the water table.

"Uppermost aquifer" means the geological formation nearest the natural ground surface that is capable of yielding ground water to wells or springs. It includes lower aquifers

that are hydraulically interconnected with this aquifer within the facility property boundary.

"Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

"Vessel" includes every description of watercraft, used or capable of being used as a means of transportation on the water.

"Waste-derived fertilizer" means a commercial fertilizer that is derived in whole or in part from solid waste as defined in chapter 70.95 or 70.105 RCW, or rules adopted thereunder, but does not include fertilizers derived from biosolids or biosolid products regulated under chapter 70.95J RCW or wastewaters regulated under chapter 90.48 RCW.

"Wastewater treatment unit" means a device that:

Is part of a wastewater treatment facility which is subject to regulation under either:

Section 402 or section 307(b) of the Federal Clean Water Act; or

Chapter 90.48 RCW, State Water Pollution Control Act, provided that the waste treated at the facility is a state-only dangerous waste; and

Handles dangerous waste in the following manner:

Receives and treats or stores an influent wastewater; or

Generates and accumulates or treats or stores a wastewater treatment sludge; and

Meets the definition of tank or tank system in this section.

"Water or rail (bulk shipment)" means the bulk transportation of dangerous waste which is loaded or carried on board a vessel or railcar without containers or labels.

"Zone of engineering control" means an area under the control of the owner/operator that, upon detection of a dangerous waste release, can be readily cleaned up prior to the release of dangerous waste or dangerous constituents to ground water or surface water.

Any terms used in this chapter which have not been defined in this section have either the same meaning as set forth in Title 40 CFR Parts 260, 264, 270, and 124 or else have their standard, technical meaning.

As used in this chapter, words in the masculine gender also include the feminine and neuter genders, words in the singular include the plural, and words in the plural include the singular.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-045 References to EPA's hazardous waste and permit regulations. (1) Any references in this chapter to any parts, subparts, or sections from EPA's hazardous waste regulations, including 40 CFR Parts 260 through 280 and Part 124, are in reference to those rules as they existed on July 1, ~~((1999))~~ 2003, except for the following: The National Environmental Performance Track Program accumulation requirements, incorporated at WAC 173-303-200(5), are from the April 22, 2004, Federal Register Volume 69, Number 78. Copies of the appropriate referenced federal requirements are available upon request from the department.

(2) The following sections and any cross-reference to these sections are not incorporated or adopted by reference because they are provisions that EPA cannot delegate to states:

(a) 40 CFR Parts 260.1 (b)(4)-(6) ~~((and 260.20-22)).~~

(b) 40 CFR Parts 264.1 (d) and (f); 265.1 (c)(4); 264.149-150 and 265.149-150; 264.301 ~~((+))~~ (1); and 265.430.

(c) 40 CFR Parts 268.5 and 268.6; 268 Subpart B; 268.42(b) and 268.44 (a) through (g).

(d) 40 CFR Parts 270.1 (c)(1)(i); 270.3; 270.60(b); and 270.64.

(e) 40 CFR Parts 124.1 (b)-(e); 124.4; 124.5(e); 124.9; 124.10 (a)(1)(iv); 124.12(e); 124.14(d); 124.15 (b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.

(3) The following sections and any cross-references to these citations are not incorporated or adopted by reference: 40 CFR Parts 260.20-22.

(4) Where EPA's regulations are incorporated by reference:

(a) "Regional administrator" means "the department."

(b) "Administrator" means "director."

(c) "Director" means "department."

(d) These substitutions should be made as appropriate. They should not be made where noted otherwise in this chapter. They should not be made where another EPA region is referred to, where a provision cannot be delegated to the state, or where the director referred to is the director of another agency.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-060 Notification and identification numbers. (1) Any person who generates, transports, offers for transport, or transfers a dangerous waste, or who owns or operates a dangerous waste TSD facility must have a current EPA/state identification number (EPA/state ID#). An EPA/state ID# is issued to TSD facilities and generators by site. A state registration number is assigned to transfer facilities by site. Any person who offers a dangerous waste to a transporter or to a dangerous waste TSD facility ~~((which))~~ that does not have an EPA/state ID#, or whose EPA/state ID# has been cancelled or withdrawn, is in violation of this regulation.

(2) Every person who must have an EPA/state ID#, and who has not already received their ID#, must notify the department by obtaining and completing a Washington State ~~((Notification of Dangerous Waste Activities (Form 2)))~~ Dangerous Waste Site Identification Form according to the instructions on the form and submitting the completed form to the department. Any person already assigned an EPA/state ID# must notify the department of any changes to their company's name, mailing address, ownership, physical location, or type of dangerous waste activity, by submitting a revised form ((2)). A revised form ((2)) must be submitted prior to adding or dropping any of the following activities: Permitted treating, storing and/or disposing, immediate recycling, transporting, permit by rule, and/or treatment by generator. ~~((For changes of company name, mailing address, or owner-~~

ship, the generator may submit a corrected Verification Form (part of the Dangerous Waste Annual Report) in lieu of a revised Form 2.) Any change in site location will require the issuance of a new EPA/state ID# for waste generation and management facilities. An EPA/state ID# may not be used at new company locations. A company that has obtained an ID# as a "transporter only" can move to a new location and continue to use the same ID#. A revised ~~((notification Form 2))~~ Dangerous Waste Site Identification Form must be submitted to the department. ~~((Notification of dangerous waste activities, Form 2))~~ A Dangerous Waste Site Identification Form and instructions for its completion may be obtained by contacting the department.

(3) Any person with an EPA/state ID# may request that his ID# be withdrawn if he will no longer be handling dangerous waste at the site the ID# has been assigned to. Any person whose ID# has been withdrawn must notify the department before he uses the ID# at any later date. Notification must be in writing, except in the case of emergencies (e.g., fires, spills, etc.) such notification may be provided by telephone first, and followed within one week by a written notification. Withdrawal will only be granted when all applicable requirements of this chapter and chapter 173-305 WAC have been met.

(4) Any person with an EPA/state ID# may request that his ID# be cancelled if he will no longer occupy the site. Notification must be in writing. An EPA/state ID# will be considered cancelled only after all applicable requirements of this chapter and chapter 173-305 WAC have been met.

(5) Any person with a current EPA/state ID# must submit an annual report as required by WAC 173-303-070(8), 173-303-220, and 173-303-390. Any person who has withdrawn or cancelled their ID# must submit an annual report up to the effective date of cancellation or withdrawal. The generator should write the effective date on the ~~((notification form))~~ Dangerous Waste Site Identification Form for the cancellation or withdrawal; it is the date by which all regulated waste activities (generation, transportation, and management) have ceased at the site.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-070 Designation of dangerous waste.

(1) Purpose and applicability.

(a) This section describes the procedures for determining whether or not a solid waste is DW or EHW.

(b) The procedures in this section are applicable to any person who generates a solid waste (including recyclable materials) that is not exempted or excluded by this chapter or by the department. Any person who must determine whether or not their solid waste is designated must follow the procedures set forth in subsection (3) of this section. Any person who determines by these procedures that their waste is designated DW or EHW is subject to all applicable requirements of this chapter.

(c) The requirements for the small quantity generator exemption are found in subsection (8) of this section.

(2)(a) Except as provided at WAC 173-303-070 (2)(c), once a material has been determined to be a dangerous waste,

then any solid waste generated from the recycling, treatment, storage, or disposal of that dangerous waste is a dangerous waste unless and until:

(i) The generator has been able to accurately describe the variability or uniformity of the waste over time, and has been able to obtain demonstration samples which are representative of the waste's variability or uniformity; and

(ii)(A) It does not exhibit any of the characteristics of WAC 173-303-090; however, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of WAC 173-303-140 (2)(a), even if they no longer exhibit a characteristic at the point of land disposal; and

(B) If it was a listed waste under WAC 173-303-080 through 173-303-083, it also has been exempted pursuant to WAC 173-303-910(3); or

(iii) If originally designated only through WAC 173-303-100, it does not meet any of the criteria of WAC 173-303-100.

Such solid waste will include but not be limited to any sludge, spill residue, ash emission control dust, leachate, or precipitation runoff. Precipitation runoff will not be considered a dangerous waste if it can be shown that the runoff has not been contaminated with the dangerous waste, or that the runoff is adequately addressed under existing state laws (e.g. chapter 90.48 RCW), or that the runoff does not exhibit any of the criteria or characteristics described in WAC 173-303-100.

(b) Materials that are reclaimed from solid wastes and that are used beneficially (as provided in WAC 173-303-016 and 173-303-017) are not solid wastes and hence are not dangerous wastes under this section unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

~~(c) ((Notwithstanding subsections (1) and (2) of this section and provided the debris does not exhibit a characteristic identified in WAC 173-303-090, the following materials are not subject to regulation under this chapter:~~

~~(i) Hazardous debris that has been treated using one of the required extraction or destruction technologies specified in Table 1 of 40 CFR section 268.45; persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or~~

~~(ii) Debris that the department, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.)~~ (i) A hazardous waste that is listed in WAC 173-303-081 or 173-303-082 solely because it exhibits one or more characteristics of ignitability as defined under WAC 173-303-090(5), corrosivity as defined under WAC 173-303-090(6), or reactivity as defined under WAC 173-303-090(7) is not a hazardous waste, if the waste no longer exhibits any characteristic of hazardous waste identified in WAC 173-303-090 or any criteria identified in WAC 173-303-100.

(ii) The exclusion described in (c)(i) of this subsection also pertains to:

(A) Any solid waste generated from treating, storing, or disposing of a hazardous waste listed in WAC 173-303-081 or 173-303-082 solely because it exhibits the characteristics

of ignitability, corrosivity, or reactivity as regulated under (a) and (b) of this section.

(B) Wastes excluded under this section are subject to 40 CFR Part 268, which is incorporated by reference (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.

(3) Designation procedures.

(a) To determine whether or not a solid waste is designated as a dangerous waste a person must:

(i) First, determine if the waste is a listed discarded chemical product, WAC 173-303-081;

(ii) Second, determine if the waste is a listed dangerous waste source, WAC 173-303-082;

(iii) Third, if the waste is not listed in WAC 173-303-081 or 173-303-082, or for the purposes of compliance with the federal land disposal restrictions as adopted by reference in WAC 173-303-140, determine if the waste exhibits any dangerous waste characteristics, WAC 173-303-090; and

(iv) Fourth, if the waste is not listed in WAC 173-303-081 or 173-303-082, and does not exhibit a characteristic in WAC 173-303-090, determine if the waste meets any dangerous waste criteria, WAC 173-303-100.

(b) A person must check each section, in the order set forth, until they determine whether the waste is designated as a dangerous waste. Once the waste is determined to be a dangerous waste, further designation is not required except as required by subsection (4) or (5) of this section. If a person has checked the waste against each section and the waste is not designated, then the waste is not subject to the requirements of chapter 173-303 WAC.

Any person who wishes to seek an exemption for a waste which has been designated DW or EHW must comply with the requirements of WAC 173-303-072.

(c) For the purpose of determining if a solid waste is a dangerous waste as identified in WAC 173-303-080 through 173-303-100, a person must either:

(i) Test the waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110; or

(ii) Apply knowledge of the waste in light of the materials or the process used, when:

(A) Such knowledge can be demonstrated to be sufficient for determining whether or not it designated and/or designated properly; and

(B) All data and records supporting this determination in accordance with WAC 173-303-210(3) are retained on-site.

(4) Testing required. Notwithstanding any other provisions of this chapter, the department may require any person to test a waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110 to determine whether or not the waste is designated under the dangerous waste lists, characteristics, or criteria, WAC 173-303-080 through 173-303-100. Such testing may be required if the department has reason to believe that the waste would be designated DW or EHW by the dangerous waste lists, characteristics, or criteria, or if the department has reason to believe that the waste is designated improperly (e.g., the waste has been designated DW but should actually be designated EHW). If a person, pursuant to the requirements of this subsection, determines that the waste is a dangerous waste or that

its designation must be changed, then they are subject to the applicable requirements of this chapter 173-303 WAC. The department will base a requirement to test a waste on evidence that includes, but is not limited to:

(a) Test information indicating that the person's waste may be DW or EHW;

(b) Evidence that the person's waste is very similar to another persons' already designated DW or EHW;

(c) Evidence that the persons' waste has historically been a DW or EHW;

(d) Evidence or information about a person's manufacturing materials or processes which indicate that the wastes may be DW or EHW; or

(e) Evidence that the knowledge or test results a person has regarding a waste is not sufficient for determining whether or not it designated and/or designated properly.

(5) Additional designation required. A generator must manage dangerous waste under the most stringent management standards that apply. The following subsections describe how waste that has been designated as DW under the dangerous waste lists, WAC 173-303-080 through 173-303-082, or characteristics, WAC 173-303-090, or in the case of (c) of this subsection, under the lists, characteristics, or criteria, must be further designated under the dangerous waste criteria, WAC 173-303-100. This further designation under the criteria is necessary because it may change how the waste must be managed. Additional designation is required when:

(a) The waste is designated as DW with a QEL of 220 pounds and the generator otherwise qualifies as a small quantity generator. In this case, a generator must determine if their DW is also designated as a toxic EHW, WAC 173-303-100, with a QEL of 2.2 pounds; or

(b) The waste is designated as DW and the waste is to be discharged to a POTW operating under WAC 173-303-802(4) (Permits by rule). In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100; or

(c) The waste is designated as a state-only DW and the waste is to be:

(i) Burned for energy recovery, as used oil, under the provisions of WAC 173-303-515; or

(ii) Land disposed within the state. In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100.

(6) Dangerous waste numbers. When a person is reporting or keeping records on a dangerous waste, they must use all the dangerous waste numbers which they know are assignable to the waste from the dangerous waste lists, characteristics, or criteria. For example, if the waste is ignitable *and* contains more than 5 mg/l leachable lead when tested for the toxicity characteristic, they must use the dangerous waste numbers of D001 and D008. This will not be construed as requiring a person to designate their waste beyond those designation requirements set forth in subsections (2), (3), (4), and (5) of this section.

(7) Quantity exclusion limits; aggregated waste quantities.

(a) Quantity exclusion limits. In each of the designation sections describing the lists, characteristics, and criteria, quantity exclusion limits (QEL) are identified. The QEL are

used to distinguish when a dangerous waste is only subject to the small quantity generator provisions, and when a dangerous waste is subject to the full requirements of this chapter. Any solid waste which is not excluded or exempted and which is listed by or exhibits the characteristics or meets the criteria of this chapter is a dangerous waste. Small quantity generators who produce dangerous waste below the QEL are subject to the requirements described in subsection (8) of this section.

(b) Aggregated waste quantities. A person may be generating, accumulating, or storing more than one kind of dangerous waste. In such cases, they must consider the aggregate quantity of their wastes when determining whether or not their waste amounts exceed the specific limits for waste accumulation or the specific quantity exclusion limits (QEL) for waste generation. Waste quantities must be aggregated for all wastes with common QEL's. Example: If a person generates 100 pounds of an ignitable waste and 130 pounds of a persistent waste, then both wastes are regulated because their aggregate waste quantity (230 pounds) exceeds their common QEL of 220 pounds. On the other hand, if a person generates one pound of a toxic EHW and 218 pounds of a corrosive waste, their quantities would not be aggregated because they do not share a common QEL (2.2 pounds and 220 pounds, respective QEL's). (Note: In order to remain a small quantity generator, the total quantity of dangerous waste generated in one month, all DW and EHW regardless of their QELs, must not equal or exceed 220 pounds. Not more than 2.2 pounds of a waste with a 2.2 pound QEL may be part of that total.)

(c) When making the quantity determinations of this subsection and WAC 173-303-170 through 173-303-230, generators must include all dangerous wastes they generate, except dangerous waste that:

(i) Is exempt from regulation under WAC 173-303-071; or

(ii) Is recycled under WAC 173-303-120 (2)(a), (3)(c), (e), (h) or (5); or

(iii) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in WAC 173-303-040; or

(iv) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under WAC 173-303-120 (4)(a); or

(v) Is spent lead-acid batteries managed under the requirements of WAC 173-303-120 (3)(f) and 173-303-520; or

(vi) Is universal waste managed under WAC 173-303-077 and 173-303-573.

(d) In determining the quantity of dangerous waste generated, a generator need not include:

(i) Dangerous waste when it is removed from on-site storage; or

(ii) Reserve; or

(iii) Spent materials that are generated, reclaimed, and subsequently reused on-site, as long as such spent materials have been counted once (Note: If after treatment or reclamation a residue is generated with a different waste code(s), that residue must be counted); or

(iv) The container holding/containing the dangerous waste as described under WAC 173-303-160(1).

(8) Small quantity generators.

(a) A person is a small quantity generator and subject to the requirements of this subsection if:

(i) Their waste is dangerous waste under subsection (3) of this section, and the quantity of waste generated per month (or the aggregated quantity if more than one kind of waste is generated) does not equal or exceed the quantity exclusion limit (QEL) for such waste (or wastes) as described in WAC 173-303-070(7); and

(ii) The quantity accumulated or stored does not exceed 2200 pounds for wastes with a 220 pound QEL and 2.2 pounds for waste with a 2.2 pound QEL. (Exception: The accumulation limit for the acute hazardous wastes described in WAC 173-303-081 (2)(iv) and 173-303-082 (2)(b) is 220 lbs); and

(iii) The total quantity of dangerous waste generated in one month, all DW and EHW regardless of their QELs, does not equal or exceed 220 pounds. If a person generates any dangerous wastes that exceed the QEL or accumulates or stores waste that exceeds the accumulation limits, then all dangerous waste generated, accumulated, or stored by that person is subject to the requirements of this chapter. A small quantity generator who generates in excess of the quantity exclusion limits or, accumulates, or stores waste in excess of the accumulation limits becomes subject to the full requirements of this chapter and cannot again be a small quantity generator until after all dangerous waste on-site at the time he or she became fully regulated have been removed, treated, or disposed.

Example. If a person generates four pounds of an acute hazardous waste discarded chemical product (QEL is 2.2 pounds) and 200 pounds of an ignitable waste (QEL is 220 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste.

(Comment: If a generator generates acute hazardous waste in a calendar month in quantities greater than the QELs, all quantities of that acute hazardous waste are subject to full regulation under this chapter. "Full regulation" means the regulations applicable to generators of greater than 2200 pounds of dangerous wastes in a calendar month.)

(b) Small quantity generators will not be subject to the requirements of this chapter if they:

(i) Designate their waste in accordance with WAC 173-303-070; and

(ii) Manage their waste in a way that does not pose a potential threat to human health or the environment; and

(iii) Either treat or dispose of their dangerous waste in an on-site facility, or ensure delivery to an off-site facility, either of which, if located in the United States, is:

(A) Permitted (including permit-by-rule, interim status, or final status) under WAC 173-303-800 through 173-303-840;

(B) Authorized to manage dangerous waste by another state with a hazardous waste program approved under 40 CFR Part 271, or by EPA under 40 CFR Part 270;

(C) Permitted to manage moderate-risk waste under chapter ~~((173-304 WAC (Minimum functional standards for solid waste handling)))~~ 173-350 WAC (Solid waste handling)

standards), operated in accordance with state and local regulations, and consistent with the applicable local hazardous waste plan that has been approved by the department;

(D) A facility that beneficially uses or reuses, or legitimately recycles or reclaims the dangerous waste, or that treats the waste prior to such recycling activities;

(E) Permitted, licensed, or registered to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to 40 CFR Part 258 or chapter 173-351 WAC;

(F) Permitted, licensed, or registered by a state to manage nonmunicipal nonhazardous waste and, if managed in a nonmunicipal nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5 through 257.30;

(G) A publicly owned treatment works (POTW): Provided, That small quantity generator(s) comply with the provisions of the domestic sewage exclusion found in WAC 173-303-071 (3)(a); or

(H) For universal waste managed under WAC 173-303-573, a universal waste handler or destination facility subject to the requirements of WAC 173-303-573; and

(iv) Submit an annual report in accordance with WAC 173-303-220 if they have obtained an EPA/state identification number pursuant to WAC 173-303-060.

(c) If a small quantity generator's wastes are mixed with used oil, the mixture is subject to WAC 173-303-510 if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also regulated if it is destined to be burned for energy recovery.

(d) If a small quantity generator's used oil is to be recycled by being burned for energy recovery or re-refined, the used oil is subject to WAC 173-303-515.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-071 Excluded categories of waste. (1) Purpose. Certain categories of waste have been excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, because they generally are not dangerous waste, are regulated under other state and federal programs, or are recycled in ways which do not threaten public health or the environment. WAC 173-303-071 describes these excluded categories of waste.

(2) Excluding wastes. Any persons who generate a common class of wastes and who seek to categorically exclude such class of wastes from the requirements of this chapter must comply with the applicable requirements of WAC 173-303-072. No waste class will be excluded if any of the wastes in the class are regulated as hazardous waste under 40 CFR Part 261.

(3) Exclusions. The following categories of waste are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, 173-303-145, and 173-303-960, and as otherwise specified:

(a)(i) Domestic sewage; and

(ii) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works (POTW) for treatment provided:

(A) The generator or owner/operator has obtained a state waste discharge permit issued by the department, a temporary permit obtained pursuant to RCW 90.48.200, or pretreatment permit (or written discharge authorization) from a local sewage utility delegated pretreatment program responsibilities pursuant to RCW 90.48.165;

(B) The waste discharge is specifically authorized in a state waste discharge permit, pretreatment permit or written discharge authorization, or in the case of a temporary permit the waste is accurately described in the permit application;

(C) The waste discharge is not prohibited under 40 CFR Part 403.5; and

(D) The waste prior to mixing with domestic sewage must not exhibit dangerous waste characteristics for ignitability, corrosivity, reactivity, or toxicity as defined in WAC 173-303-090, and must not meet the dangerous waste criteria for toxic dangerous waste or persistent dangerous waste under WAC 173-303-100, unless the waste is treatable in the publicly owned treatment works (POTW) where it will be received. This exclusion does not apply to the generation, treatment, storage, recycling, or other management of dangerous wastes prior to discharge into the sanitary sewage system;

(b) Industrial wastewater discharges that are point-source discharges subject to regulation under Section 402 of the Clean Water Act. This exclusion does not apply to the collection, storage, or treatment of industrial waste-waters prior to discharge, nor to sludges that are generated during industrial wastewater treatment. Owners or operators of certain wastewater treatment facilities managing dangerous wastes may qualify for a permit-by-rule pursuant to WAC 173-303-802(5);

(c) Household wastes, including household waste that has been collected, transported, stored, or disposed. Wastes that are residues from or are generated by the management of household wastes (e.g., leachate, ash from burning of refuse-derived fuel) are not excluded by this provision. "Household wastes" means any waste material (including, but not limited to, garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste will not be deemed to be treating, storing, disposing of, or otherwise managing dangerous wastes for the purposes of regulation under this chapter, if such facility:

(i) Receives and burns only:

(A) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and

(B) Solid waste from commercial or industrial sources that does not contain dangerous waste; and

(ii) Such facility does not accept dangerous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that dangerous wastes are not received at or burned in such facility;

(d) Agricultural crops and animal manures which are returned to the soil as fertilizers;

(e) Asphaltic materials designated only for the presence of PAHs by WAC 173-303-100(6). For the purposes of this exclusion, asphaltic materials means materials that have been used for structural and construction purposes (e.g., roads, dikes, paving) that were produced from mixtures of oil and sand, gravel, ash or similar substances;

(f) Roofing tars and shingles, except that these wastes are not excluded if mixed with wastes listed in WAC 173-303-081 or 173-303-082, or if they exhibit any of the characteristics specified in WAC 173-303-090;

(g) Treated wood waste and wood products including:

(i) Arsenical-treated wood that fails the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D004 through D017 only)(~~(7)~~) or (~~which~~) that fails any state criteria(~~(, if the waste is generated by persons who utilize the arsenical treated wood for the materials' intended end use)~~). In order to meet the exclusion, the wood product must have been previously used in typical treated wood applications (for example, fence posts, decking, poles, and timbers).

(ii) Wood treated with other preservatives provided such treated wood (~~(is)~~) and wood waste (for example, sawdust and shavings) are, within one hundred eighty days after becoming waste:

(A) Disposed of at a landfill that is permitted in accordance with (~~WAC 173-304-460, minimum functional standards for solid waste handling~~) chapter 173-350 WAC, Solid waste handling standards, or chapter 173-351 WAC, criteria for municipal solid waste landfills, and provided that such wood is neither a listed waste under WAC 173-303-9903 and 173-303-9904 nor a TCLP waste under WAC 173-303-090(8); or

(B) Sent to a facility that will legitimately treat or recycle the treated wood waste, and manage any residue in accordance with that state's dangerous waste regulations; or

(C) Sent off-site to a permitted TSD facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845. In addition, creosote-treated wood is excluded when burned for energy recovery in an industrial furnace or boiler that has an order of approval issued pursuant to RCW 70.94.152 by ecology or a local air pollution control authority to burn creosote treated wood.

(h) Irrigation return flows;

(i) Reserve;

(j) Mining overburden returned to the mining site;

(k) Polychlorinated biphenyl (PCB) wastes:

(i) PCB wastes whose disposal is regulated by EPA under 40 CFR 761.60 (Toxic Substances Control Act) and that are dangerous either because:

(A) They fail the test for toxicity characteristic (WAC 173-303-090(8), Dangerous waste codes D018 through D043 only); or

(B) Because they are designated only by this chapter and not designated by 40 CFR Part 261, are exempt from regulation under this chapter except for WAC 173-303-505 through 173-303-525, 173-303-960, those sections specified in subsection (3) of this section, and 40 CFR Part 266;

(ii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as (~~W004~~) WPCB under WAC 173-303-9904 when such wastes are stored and disposed in a manner equivalent to the requirements of 40 CFR Part 761 Subpart D for PCB concentrations of 50 ppm or greater.

(l) Samples:

(i) Except as provided in (l)(ii) of this subsection, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this chapter, when:

(A) The sample is being transported to a lab for testing or being transported to the sample collector after testing; or

(B) The sample is being stored by the sample collector before transport, by the laboratory before testing, or by the laboratory after testing prior to return to the sample collector; or

(C) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action).

(ii) In order to qualify for the exemptions in (l)(i) of this subsection, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

(A) Comply with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(B) Comply with the following requirements if the sample collector determines that DOT or USPS, or other shipping requirements do not apply:

(I) Assure that the following information accompanies the sample:

(AA) The sample collector's name, mailing address, and telephone number;

(BB) The laboratory's name, mailing address, and telephone number;

(CC) The quantity of the sample;

(DD) The date of shipment;

(EE) A description of the sample; and

(II) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(iii) This exemption does not apply if the laboratory determines that the waste is dangerous but the laboratory is no longer meeting any of the conditions stated in (l)(i) of this subsection;

(m) Reserve;

(n) Dangerous waste generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment-manufacturing unit until it exits the unit in which it was generated. This exclusion does not apply to surface impoundments, nor does it apply if the dangerous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials;

(o) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (~~(SIC codes 331 and 332)~~) NAICS codes 331111 and

332111), except that these wastes are not excluded if they exhibit one or more of the dangerous waste criteria (WAC 173-303-100) or characteristics (WAC 173-303-090);

(p) Wastes from burning any of the materials exempted from regulation by WAC 173-303-120 (2)(a)(vii) and (viii). These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria;

(q) As of January 1, 1987, secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed;

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal; and

(v) A generator complies with the requirements of chapter 173-303 WAC for any residues (e.g., sludges, filters, etc.) produced from the collection, reclamation, and reuse of the secondary materials.

(r) Treatability study samples.

(i) Except as provided in (r)(ii) of this subsection, persons who generate or collect samples for the purpose of conducting treatability studies as defined in WAC 173-303-040 are not subject to the requirements of WAC 173-303-180, 173-303-190, and 173-303-200 (1)(a), nor are such samples included in the quantity determinations of WAC 173-303-070 (7) and (8) and 173-303-201 when:

(A) The sample is being collected and prepared for transportation by the generator or sample collector; or

(B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study; or

(D) The sample or waste residue is being transported back to the original generator from the laboratory or testing facility.

(ii) The exemption in (r)(i) of this subsection is applicable to samples of dangerous waste being collected and shipped for the purpose of conducting treatability studies provided that:

(A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute dangerous waste, 1000 kg of nonacute dangerous waste other than contaminated media, 1 kg of acutely hazardous waste, 2500 kg of media contaminated with acutely hazardous waste for each process being evaluated for each generated waste stream; and

(B) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute dangerous waste or may include 2500 kg

of media contaminated with acute hazardous waste, 1000 kg of dangerous waste, and 1 kg of acutely hazardous waste; and

(C) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of (r)(ii)(C)(I) or (II) of this subsection are met.

(I) The transportation of each sample shipment complies with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(II) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(AA) The name, mailing address, and telephone number of the originator of the sample;

(BB) The name, address, and telephone number of the laboratory or testing facility that will perform the treatability study;

(CC) The quantity of the sample;

(DD) The date of shipment; and

(EE) A description of the sample, including its dangerous waste number.

(D) The sample is shipped, within ninety days of being generated or of being taken from a stream of previously generated waste, to a laboratory or testing facility which is exempt under (s) of this subsection or has an appropriate final facility permit or interim status; and

(E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

(I) Copies of the shipping documents;

(II) A copy of the contract with the facility conducting the treatability study;

(III) Documentation showing:

(AA) The amount of waste shipped under this exemption;

(BB) The name, address, and EPA/state identification number of the laboratory or testing facility that received the waste;

(CC) The date the shipment was made; and

(DD) Whether or not unused samples and residues were returned to the generator.

(F) The generator reports the information required under (r)(ii)(E)(III) of this subsection in its annual report.

(iii) The department may grant requests, on a case-by-case basis, for up to an additional two years for treatability studies involving bioremediation. The department may grant requests on a case-by-case basis for quantity limits in excess of those specified in (r)(ii)(A) and (B) of this subsection and (s)(iv) of this subsection, for up to an additional 5000 kg of media contaminated with nonacute dangerous waste, 500 kg of nonacute dangerous waste, 1 kg of acute hazardous waste, and 2500 kg of media contaminated with acute hazardous waste or for up to an additional 10,000 kg of wastes regulated only by this chapter and not regulated by 40 CFR Part 261, to conduct further treatability study evaluation:

(A) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process, (e.g., batch versus contin-

uous), size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

(B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when:

There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(C) The additional quantities and time frames allowed in (r)(iii)(A) and (B) of this subsection are subject to all the provisions in (r)(i) and (r)(ii)(C) through (F) of this subsection. The generator or sample collector must apply to the department where the sample is collected and provide in writing the following information:

(I) The reason the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

(II) Documentation accounting for all samples of dangerous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

(III) A description of the technical modifications or change in specifications which will be evaluated and the expected results;

(IV) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(V) Such other information that the department considers necessary.

(s) Samples undergoing treatability studies at laboratories and testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to chapter 70.105 RCW) are not subject to the requirements of this chapter, except WAC 173-303-050, 173-303-145, and 173-303-960 provided that the conditions of (s)(i) through (xiii) of this subsection are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to (s)(i) through (xiii) of this subsection. Where a group of MTUs are located at the same site, the limitations specified in (s)(i) through (xiii) of this subsection apply to the entire group of MTUs collectively as if the group were one MTU.

(i) No less than forty-five days before conducting treatability studies the laboratory or testing facility notifies the department in writing that it intends to conduct treatability studies under this subsection.

(ii) The laboratory or testing facility conducting the treatability study has an EPA/state identification number.

(iii) No more than a total of 10,000 kg of "as received" media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste or 250 kg of other "as received" dangerous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(iv) The quantity of "as received" dangerous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste, 1000 kg of nonacute dangerous wastes other than contaminated media, and 1 kg of acutely hazardous waste. This quantity limitation does not include treatment materials (including nondangerous solid waste) added to "as received" dangerous waste.

(v) No more than ninety days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

(vi) The treatability study does not involve the placement of dangerous waste on the land or open burning of dangerous waste.

(vii) The laboratory or testing facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

(A) The name, address, and EPA/state identification number of the generator or sample collector of each waste sample;

(B) The date the shipment was received;

(C) The quantity of waste accepted;

(D) The quantity of "as received" waste in storage each day;

(E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

(F) The date the treatability study was concluded;

(G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated TSD facility, the name of the TSD facility and its EPA/state identification number.

(viii) The laboratory or testing facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(ix) The laboratory or testing facility prepares and submits a report to the department by March 15 of each year that

estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(A) The name, address, and EPA/state identification number of the laboratory or testing facility conducting the treatability studies;

(B) The types (by process) of treatability studies conducted;

(C) The names and addresses of persons for whom studies have been conducted (including their EPA/state identification numbers);

(D) The total quantity of waste in storage each day;

(E) The quantity and types of waste subjected to treatability studies;

(F) When each treatability study was conducted;

(G) The final disposition of residues and unused sample from each treatability study.

(x) The laboratory or testing facility determines whether any unused sample or residues generated by the treatability study are dangerous waste under WAC 173-303-070 and if so, are subject to the requirements of this chapter, unless the residues and unused samples are returned to the sample originator under the exemption in (r) of this subsection.

(xi) The laboratory or testing facility notifies the department by letter when it is no longer planning to conduct any treatability studies at the site.

(xii) The date the sample was received, or if the treatability study has been completed, the date of the treatability study, is marked and clearly visible for inspection on each container.

(xiii) While being held on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public.

Note: If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate.

(t) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D018 through D043 only) and are subject to the corrective action regulations under 40 CFR Part 280.

(u) Special incinerator ash (as defined in WAC 173-303-040).

(v) Wood ash that would designate solely for corrosivity by WAC 173-303-090 (6)(a)(iii). For the purpose of this exclusion, wood ash means ash residue and emission control dust generated from the combustion of untreated wood, wood treated solely with creosote, and untreated wood fiber materials including, but not limited to, wood chips, saw dust, tree stumps, paper, cardboard, residuals from waste fiber recycling, deinking rejects, and associated wastewater treatment solids. This exclusion allows for the use of auxiliary fuels including, but not limited to, oils, gas, coal, and other fossil fuels in the combustion process.

(w)(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and

(ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in (w)(i) and (ii) of this subsection, so long as they meet all of the following conditions:

(A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose;

(B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or ground water or both;

(C) Any unit used to manage wastewaters and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

(D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in Part 265, Subpart W which is incorporated by reference at WAC 173-303-400 (3)(a), regardless of whether the plant generates a total of less than 220 pounds/month of dangerous waste; and

(E) Prior to operating pursuant to this exclusion, the plant owner or operator submits to the department a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than three years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the department for reinstatement. The department may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

(F) Additional reports.

(I) Upon determination by the department that the storage of wood preserving wastewaters and spent wood preserving solutions in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store wood preserving wastewaters and spent wood preserving solutions. This authority applies to tanks and secondary containment systems used to store wood preserving wastewaters and spent wood preserving solutions in tanks and containers. The department's determination of a threat to public health or the environment may be based upon observations of factors that would contribute to spills or releases of wood preserving wastewaters and spent wood preserving solutions or the generation of hazardous by-products. Such observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of

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joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.

(II) When required by the department, a qualified, independent professional engineer registered to practice in Washington state must perform the assessment of the integrity of tanks or secondary containment systems.

(III) Requirement for facility repairs and improvements. If, upon evaluation of information obtained by the department under (w)(iii)(F)(I) of this subsection, it is determined that repairs or structural improvements are necessary in order to eliminate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage unit and remove the wood preserving wastewaters and spent wood preserving solutions until such repairs or improvements are completed and approved by the department.

(x) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

(y) Used oil filters that are recycled in accordance with WAC 173-303-120, as used oil and scrap metal.

(z) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(aa) Wastes that fail the test for the toxicity characteristic in WAC 173-303-090 because chromium is present or are listed in WAC 173-303-081 or 173-303-082 due to the presence of chromium. The waste must not designate for any other characteristic under WAC 173-303-090, for any of the criteria specified in WAC 173-303-100, and must not be listed in WAC 173-303-081 or 173-303-082 due to the presence of any constituent from WAC 173-303-9905 other than chromium. The waste generator must be able to demonstrate that:

(i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

(ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

(iii) The waste is typically and frequently managed in nonoxidizing environments.

(bb)(i) Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062 or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in WAC 173-303-040 - blast furnaces, smelting, melting and refining furnaces, and other devices the department may add to the list - of the definition for "industrial furnace"), that are disposed in subtitle D units, provided that these residues meet the generic exclusion levels identified in the tables in this paragraph for all constituents, and exhibit no characteristics of dangerous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have

the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

Constituent	Maximum for any single composite sample-TCLP (mg/l)
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Generic exclusion levels for K061 and K062 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
(2)Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

Generic exclusion levels for F006 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

(ii) A one-time notification and certification must be placed in the facility's files and sent to the department for K061, K062 or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generator's or treater's files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater need only notify the department on an annual basis if such changes occur. Such notification and certification should be sent to the department by the end of the calendar year, but no later than December 31. The notification must include the following information: The name and address of the subtitle D unit receiving the waste shipments; the dangerous waste num-

ber(s) and treatability group(s) at the initial point of generation; and, the treatment standards applicable to the waste at the initial point of generation. The certification must be signed by an authorized representative and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of dangerous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment." These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics (WAC 173-303-090) or criteria (WAC 173-303-100).

(cc)(i) Oil-bearing hazardous secondary materials (that is, sludges, by-products, or spent materials) that are generated at a petroleum refinery (~~((SIC code 2911))~~ NAICS code 324110) and are inserted into the petroleum refining process (~~((SIC code 2911))~~ NAICS code 324110 - including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (that is, cokers)) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph: Provided, That the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in (cc)(ii) of this subsection, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (that is, from sources other than petroleum refineries) are not excluded under this section. Residuals generated from processing or recycling materials excluded under this paragraph, where such materials as generated would have otherwise met a listing under WAC 173-303-081 and 173-303-082, are designated as F037 listed wastes when disposed of or intended for disposal.

(ii) Recovered oil that is recycled in the same manner and with the same conditions as described in (cc)(i) of this subsection. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (~~((SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172))~~ NAICS codes 211111, 211112, 213111, 213112, 541360, 237120, 238910, 324110, 486110, 486910, 486210, 221210, 486210, 487110, 488210, 488999, 722310, 424710, 454311, 454312, 424720, 425110, 425120). Recovered oil does not include oil-bearing hazardous wastes listed in WAC 173-303-081 and 173-303-082; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in WAC 173-303-040.

(dd) Dangerous waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are dangerous only because they exhibit the toxicity characteristic (TC) specified in WAC 173-303-090(8) when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or mixed with coal

tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or tar recovery or refining processes, or mixed with coal tar.

(ee) Biological treatment sludge from the treatment of one of the following wastes listed in WAC 173-303-9904 - organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K156), and wastewaters from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K157) unless it exhibits one or more of the characteristics or criteria of dangerous waste.

(ff) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.

(gg) Shredded circuit boards being recycled: Provided, That they are:

(i) Stored in containers sufficient to prevent a release to the environment prior to recovery; and

(ii) Free of mercury switches, mercury relays and nickel-cadmium batteries and lithium batteries.

(hh) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (~~((SIC code 2911))~~ NAICS code 324110) along with normal petroleum refinery process streams, provided:

(i) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in WAC 173-303-090(5)) and/or toxicity for benzene (WAC 173-303-090(8), waste code D018); and

(ii) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process.

An "associated organic chemical manufacturing facility" is a facility where the primary (~~(SIC))~~ NAICS code is ((2869)) 325110, 325120, 325188, 325192, 325193, or 325199, but where operations may also include (~~(SIC codes 2821, 2822, and 2865))~~ NAICS codes 325211, 325212, 325110, 325132, 325192; and is physically colocated with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (that is, sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

(ii) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land, or accumulated speculatively as defined in WAC 173-303-016(5).

(jj) Catalyst inert support media separated from one of the following wastes listed in WAC 173-303-9904 Specific Sources - Spent hydrotreating catalyst (EPA Hazardous Waste No. K171), and Spent hydrorefining catalyst (EPA

Hazardous Waste No. K172). These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria.

(kk) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed: Provided, That:

(i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, ~~((and))~~ K172, K174, K175, K176, K177, and K178 if these wastes had been generated after the effective date of the listing (~~((February 8, 1999))~~);

(ii) The solid wastes described in (kk)(i) of this subsection were disposed prior to the effective date of the listing;

(iii) The leachate or gas condensate does not exhibit any characteristic or criteria of dangerous waste nor is derived from any other listed hazardous waste;

(iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act.

(v) ~~((After))~~ As of February 13, 2001, leachate or gas condensate ~~((with))~~ derived from K169 - K172 is no longer ~~((be))~~ exempt if it is stored or managed in a surface impoundment prior to discharge. After November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: If the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (for example, shutdown of wastewater treatment system): Provided, That the impoundment has a double liner, and: Provided further, That the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph after the emergency ends.

(ll) Dredged material. Dredged material as defined in 40 CFR 232.2 that is subject to:

(i) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers or an approved state under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(ii) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

(iii) In the case of a U.S. Army Corps of Engineers civil works project, the administrative equivalent of the permits referred to in (ll)(i) and (ii) of this subsection, as provided for in U.S. Army Corps of Engineers regulations, including, for example, 33 CFR 336.1, 336.2 and 337.3.

(mm) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.

(nn)(i) Controlled substances, legend drugs, and over-the-counter drugs that are state-only dangerous wastes.

(A) Controlled substances as defined and regulated by chapter 69.50 RCW (Schedule I through V);

(B) Legend drugs as defined and regulated by chapter 69.41 RCW; and

(C) Over-the-counter drugs as defined and regulated by chapter 69.60 RCW.

(ii) Controlled substances, legend drugs, and over-the-counter drugs that are held in the custody of law enforcement agencies or possessed by any licensee as defined and regulated by chapter 69.50 RCW or Title 18 RCW and authorized to possess drugs within the state of Washington are excluded, provided the drugs are disposed of by incineration in a controlled combustion unit with a heat input rate greater than 250 million British thermal units/hour, a combustion zone temperature greater than 1500 degrees Fahrenheit, or a facility permitted to incinerate municipal solid waste.

(iii) For the purposes of this exclusion the term "drugs" means:

(A) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(B) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(C) Substances (other than food) intended to affect the structure or any function of the body of man or other animals, as defined in RCW 18.64.011(3). (Note: RCW 18.64.011(3)(d) is intentionally not included in the definition of drugs for this exclusion.)

(iv) When possessed by any licensee the term drugs used in this exclusion means finished drug products.

(oo) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions specified are satisfied:

(i) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in WAC 173-303-016 (5)(c)(ii).

(ii) Generators and intermediate handlers of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must:

(A) Submit a one-time notice to the department that contains the name, address and EPA/state ID number of the generator or intermediate handler facility, provides a brief description of the secondary material that will be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this subsection (3)(oo).

(B) Store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of nonearthen materials that provide structural support, and must have a floor, walls and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose must be structurally sound and, if outdoors, must have roofs or covers that prevent contact with wind and rain. Containers used for this purpose must be kept closed except when it is necessary to add or remove material, and must be in sound condition. Containers that are stored outdoors must be managed within storage areas that:

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(I) Have containment structures or systems sufficiently impervious to contain leaks, spills and accumulated precipitation; and

(II) Provide for effective drainage and removal of leaks, spills and accumulated precipitation; and

(III) Prevent run-on into the containment system.

(C) With each off-site shipment of excluded hazardous secondary materials, provide written notice to the receiving facility that the material is subject to the conditions of this subsection (3)(oo).

(D) Maintain at the generator's or intermediate handler's facility for no less than three years records of all shipments of excluded hazardous secondary materials. For each shipment these records must at a minimum contain the following information:

(I) Name of the transporter and date of the shipment;

(II) Name and address of the facility that received the excluded material, and documentation confirming receipt of the shipment; and

(III) Type and quantity of excluded secondary material in each shipment.

(iii) Manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must:

(A) Store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in (oo)(ii)(B) of this subsection.

(B) Submit a one-time notification to the department that, at a minimum, specifies the name, address and EPA/state ID number of the manufacturing facility, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this subsection (3)(oo).

(C) Maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, name of transporter and date the materials were received, the quantity received, and a brief description of the industrial process that generated the material.

(D) Submit to the department an annual report that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial process(es) from which they were generated.

(iv) Nothing in this subsection preempts, overrides or otherwise negates the provision in WAC 173-303-070 (1) through (5), which requires any person who generates a solid waste to determine if that waste is a hazardous waste.

(v) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in (oo)(ii)(A) of this subsection, and that afterward will be used only to store hazardous secondary materials excluded under this paragraph, are not subject to the closure requirements of WAC 173-303-400 and 173-303-600 through 173-303-695.

(pp) Zinc fertilizers made from hazardous wastes, or hazardous secondary materials that are excluded under (oo) of this subsection, provided that:

(i) The fertilizers meet the following contaminant limits:

(A) For metal contaminants:

<u>Maximum Allowable Total Concentration Constituent in Fertilizer, per Unit (1%) of Zinc (ppm)</u>	
<u>Arsenic</u>	<u>0.3</u>
<u>Cadmium</u>	<u>1.4</u>
<u>Chromium</u>	<u>0.6</u>
<u>Lead</u>	<u>2.8</u>
<u>Mercury</u>	<u>0.3</u>

(B) For dioxin contaminants the fertilizer must contain no more than eight parts per trillion of dioxin, measured as toxic equivalent (TEQ).

(ii) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less than every six months, and for dioxins no less than every twelve months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the product(s) introduced into commerce.

(iii) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with the requirements of (pp)(ii) of this subsection. Such records must at a minimum include:

(A) The dates and times product samples were taken, and the dates the samples were analyzed;

(B) The names and qualifications of the person(s) taking the samples;

(C) A description of the methods and equipment used to take the samples;

(D) The name and address of the laboratory facility at which analyses of the samples were performed;

(E) A description of the analytical methods used, including any cleanup and sample preparation methods; and

(F) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (3)(pp).

(qq) Debris. Provided the debris does not exhibit a characteristic identified in WAC 173-303-090, the following materials are not subject to regulation under this chapter:

(i) Hazardous debris that has been treated using one of the required extraction or destruction technologies specified in Table 1 of 40 CFR section 268.45, which is incorporated by reference at WAC 173-303-140 (2)(a); persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or

(ii) Debris that the department, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-077 Requirements for universal waste. The wastes listed in this section are exempt from regulation under WAC 173-303-140, 173-303-170 through 173-303-9907 (except for WAC 173-303-960), and except as specified in WAC 173-303-573, and therefore are not fully regulated as dangerous waste. The wastes listed in this section are subject to regulation under WAC 173-303-573:

- (1) Batteries as described in WAC 173-303-573(2);
- (2) Thermostats as described in WAC 173-303-573(3);
- ((and))
- (3) Mercury-containing equipment as described in WAC 173-303-573(4); and
- (4) Lamps as described in WAC 173-303-573(5).

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-081 Discarded chemical products. (1) A waste will be designated as a dangerous waste if it is handled in any of the manners described in (e) of this subsection, and if it is a residue from the management of:

- (a) A commercial chemical product or manufacturing chemical intermediate which has the generic name listed in the discarded chemical products list, WAC 173-303-9903;
- (b) An off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have the generic name listed in the discarded chemical products list, WAC 173-303-9903;
- (c) Any containers, inner liners, or residue remaining in a container or in an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate that has, or any off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have, the generic name listed on the "P" or "U" discarded chemical products list of WAC 173-303-9903, unless the containers or inner liners are empty as described in WAC 173-303-160(2);
- (d) Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill of a commercial chemical product or manufacturing chemical intermediate which has, or of an off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have, the generic name listed in the discarded chemical products list, WAC 173-303-9903;
- (e) The materials or items described in (a), (b), (c), and (d) of this subsection are dangerous wastes when they are:
 - (i) Discarded or intended to be discarded as described in WAC 173-303-016 (3)(b)(i);
 - (ii) Burned for purposes of energy recovery in lieu of their original intended use;
 - (iii) Used to produce fuels in lieu of their original intended use;
 - (iv) Applied to the land in lieu of their original intended use; or

(v) Contained in products that are applied to the land in lieu of their original intended use.

(2) Quantity exclusion limits:

(a) A person with a waste or wastes (including residues from the management of wastes) identified in subsection (1) of this section, will be a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the amount of his waste exceeds the following quantity exclusion limits:

(i) For chemicals designated on the "P" discarded chemical products list of WAC 173-303-9903 - 2.2 lbs. (1.0 kg) per month or per batch. Such wastes are designated DW and are identified as acute hazardous wastes;

(ii) For chemicals, and for residues from the cleanup of spills involving chemicals, designated on the "U" discarded chemical products list of WAC 173-303-9903 - 220 lbs. (100 kg) per month or per batch. Such wastes are designated DW;

(iii) For containers or inner liners which held any chemical designated on the "P" discarded chemical products list of WAC 173-303-9903 - 2.2 lbs. (1.0 kg) of residue remaining in the containers or inner liners per month or per batch unless the containers or inner liners meet the definition of empty and have been triple rinsed as described in WAC 173-303-160(2). Such wastes are designated DW and are identified as acute hazardous wastes;

(iv) For residues, contaminated soil, water, or other debris from the cleanup of a spill of any chemical designated on the "P" discarded chemical products list of WAC 173-303-9903 - 220 lbs. (100 kg) per month or per batch. Such wastes are designated DW and are identified as acute hazardous wastes.

(b) A person's total monthly waste quantity is the sum of all their wastes which share a common quantity exclusion limit (e.g., the total quantity of all discarded chemical products with a 2.2 pound QEL, the total quantity of all residues contaminated by discarded chemical products with a 2.2 pound QEL, etc.) which were generated during a month or a batch operation at each specific waste generation site.

(3) Dangerous waste numbers and mixtures. A waste which has been designated as a discarded chemical product dangerous waste must be assigned the dangerous waste number or numbers listed in WAC 173-303-9903 next to the generic chemical or chemicals which caused the waste to be designated. If a person mixes a solid waste with a waste that would be designated as a discarded chemical product under this section, then the entire mixture must be designated. The mixture designation is the same as the designation for the discarded chemical product which was mixed with the solid waste unless it has been excluded under WAC 173-303-070 (2)(c) or (d). For example, a mixture containing 2.2 lbs. (1 kg) of Aldrin (dangerous waste number P004, DW designation, QEL of 2.2 lbs.) and 22 lbs. (10 kg) of a solid waste, would be designated DW, and identified as acute hazardous waste. The mixture would have the dangerous waste number P004.

(4) Reserve.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-082 Dangerous waste sources. (1) The dangerous waste sources list appears in WAC 173-303-9904. Any waste that is listed or is a residue from the management of a waste listed on the dangerous waste sources list must be designated a dangerous waste, and identified as DW.

(2) Quantity exclusion limit. A person whose waste is listed in WAC 173-303-9904 (including residues from the management of such wastes) is a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the amount of his waste exceeds the following quantity exclusion limits:

(a) 2.2 lbs. (1 kg) per month or per batch for wastes listed with the dangerous waste numbers F020, F021, F022, F023, F026, or F027. These wastes are designated DW and identified as acute hazardous wastes;

(b) 220 lbs. (100 kg) per month or per batch of any residue or contaminated soil, waste or other debris resulting from the cleanup of a spill, into or on any land or water of a waste listed in (a) of this subsection, or of an acute hazardous waste listed in WAC 173-303-9904 under specific sources ("K" wastes). Note: Acute hazardous K listed wastes are followed by an "H." These wastes are designated DW and identified as acute hazardous wastes; or

(c) 220 lbs. (100 kg) per month or per batch for all other wastes.

(3) Care should be taken in the proper designation of these wastes and of mixtures of these wastes and solid wastes. If a person mixes a solid waste with a waste that would be designated as a dangerous waste source under this section, then the entire mixture is designated as a dangerous waste source unless it has been excluded under WAC 173-303-070 (2)(c) or (d). The mixture has the same designation (DW), and the same dangerous waste number as the dangerous waste source which was mixed with the solid waste.

(4) 40 CFR Part 261 Appendix VII *Basis for Listing Hazardous Waste* is adopted by reference.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-090 Dangerous waste characteristics.

(1) Purpose. The purpose of this section is to set forth characteristics which a solid waste might exhibit and which would cause that waste to be a dangerous waste.

(2) Representative samples. The department will consider a sample obtained using any of the applicable sampling methods described in WAC 173-303-110(2), sampling and testing methods, to be a representative sample.

(3) Equivalent test methods. The testing methods specified in this section are the only acceptable methods, unless the department approves an equivalent test method in accordance with WAC 173-303-910(2).

(4) Quantity exclusion limit. A solid waste is a dangerous waste if it exhibits one or more of the dangerous waste characteristics described in subsections (5), (6), (7), and (8) of this section. If a person's solid waste exhibits one or more of these characteristics, then he or she is a dangerous waste generator (and may not be considered a small quantity gener-

ator as provided in WAC 173-303-070(8)) if the quantity of their waste exceeds 220 lbs. (100 kg) per month or per batch.

(5) Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

(i) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60 degrees C (140 degrees F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80, or a Setflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78;

(ii) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard;

(iii) It is an ignitable compressed gas that is defined in 49 CFR 173.115 and is determined to be flammable by the test methods described in that regulation; or

(iv) It is an oxidizer, if it is defined as such in 49 CFR 173.127 (~~and 173.128~~).

(b) A solid waste that exhibits the characteristic of ignitability must be designated DW, and assigned the dangerous waste number of D001.

(6) Characteristic of corrosivity.

(a) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has any one or more of the following properties:

(i) It is aqueous and has a pH less than or equal to 2, or greater than or equal to 12.5, as determined by a pH meter using Method 9040 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in WAC 173-303-110 (3)(a);

(ii) It is liquid and corrodes steel (SAE 1020) at a rate greater than 0.250 inch (6.35 mm) per year at a test temperature of 55 degrees C (130 degrees F) as determined by the test method specified in NACE (National Association of Corrosion Engineers) Standard TM-01-69 as standardized in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in WAC 173-303-110 (3)(a); or

(iii) It is solid or semisolid which, upon testing using Method 9045 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW 846), results in a pH less than or equal to 2, or greater than or equal to 12.5.

(b) A solid waste that exhibits the characteristic of corrosivity because:

(i) It has either of the properties described in (a)(i) or (ii) of this subsection will be designated DW, and assigned the dangerous waste number of D002;

(ii) It only has the property described in (a)(iii) of this subsection will be designated DW, and assigned the dangerous waste number of WSC2.

(7) Characteristic of reactivity.

(a) A solid waste exhibits the characteristic of reactivity if a representative sample of the waste has any of the following properties:

PROPOSED

- (i) It is normally unstable and readily undergoes violent change without detonating;
- (ii) It reacts violently with water;
- (iii) It forms potentially explosive mixtures with water;
- (iv) When mixed with water, it generates toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

(v) It is a cyanide or sulfide bearing waste which, when exposed to pH conditions between 2 and 12.5 can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

(vi) It is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement;

(vii) It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure; or

(viii) It is a forbidden explosive as defined in 49 CFR 173.54, or a Class 1 explosive, Division 1.1, Division 1.2, Division 1.3, and Division 1.5, as defined in 49 CFR 173.50.

(b) A solid waste that exhibits the characteristic of reactivity must be designated DW, and assigned the dangerous waste number of D003.

(8) Toxicity characteristic.

(a) A solid waste exhibits the characteristic of toxicity if, using the *Toxicity Characteristic Leaching Procedure* (TCLP), test Method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in WAC 173-303-110 (3)(a), the extract from a representative sample of the waste contains any of the contaminants listed in the toxicity characteristic list in (c) of this subsection, at concentrations equal to or greater than the respective value given in the list. When the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in Method 1311, is considered to be the extract for the purpose of this subsection.

(b) A solid waste that exhibits the toxicity characteristic has the dangerous waste number specified in the list which corresponds to the toxic contaminant causing it to be dangerous.

(c) Toxicity characteristic list. Any waste that contains contaminants which occur at concentrations at or above the DW threshold must be designated DW.

TOXICITY CHARACTERISTICS LIST:

Maximum Concentration of Contaminants for the Toxicity Characteristic

Dangerous Waste Number	Contaminant	(Chemical Abstracts Services #)	DW (mg/L)
D004	Arsenic	(7440-38-2)	5.0
D005	Barium	(7440-39-3)	100.0
D018	Benzene	(71-43-2)	0.5
D006	Cadmium	(7440-43-9)	1.0
D019	Carbon tetrachloride	(56-23-5)	0.5
D020	Chlordane	(57-74-9)	0.03
D021	Chlorobenzene	(108-90-7)	100.0

Dangerous Waste Number	Contaminant	(Chemical Abstracts Services #)	DW (mg/L)
D022	Chloroform	(67-66-3)	6.0
D007	Chromium	(7440-47-3)	5.0
D023	o-Cresol	(95-48-7)	200.0
		/1/	
D024	m-Cresol	(108-39-4)	200.0
		/1/	
D025	p-Cresol	(106-44-5)	200.0
		/1/	
D026	Cresol	/1/	200.0
D016	2,4-D	(94-75-7)	10.0
D027	1,4-Dichlorobenzene	(106-46-7)	7.5
D028	1,2-Dichloroethane	(107-06-2)	0.5
D029	1,1-Dichloroethylene	(75-35-4)	0.7
D030	2,4-Dinitrotoluene	(121-14-2)	0.13
		/2/	
D012	Endrin	(72-20-8)	0.02
D031	Heptachlor (and its epoxide)	(76-44-8)	0.008
D032	Hexachlorobenzene	(118-74-1)	0.13
		/2/	
D033	Hexachlorobutadiene	(87-68-3)	0.5
D034	Hexachloroethane	(67-72-1)	3.0
D008	Lead	(7439-92-1)	5.0
D013	Lindane	(58-89-9)	0.4
D009	Mercury	(7439-97-6)	0.2
D014	Methoxychlor	(72-43-5)	10.0
D035	Methyl ethyl ketone	(78-93-3)	200.0
D036	Nitrobenzene	(98-95-3)	2.0
D037	Pentachlorophenol	(87-86-5)	100.0
D038	Pyridine	(110-86-1)	5.0
		/2/	
D010	Selenium	(7782-49-2)	1.0
D011	Silver	(7440-22-4)	5.0
D039	Tetrachloroethylene	(127-18-4)	0.7
D015	Toxaphene	(8001-35-2)	0.5
D040	Trichloroethylene	(79-01-6)	0.5
D041	2,4,5-Trichlorophenol	(95-95-4)	400.0
D042	2,4,6-Trichlorophenol	(88-06-2)	2.0
D017	2,4,5-TP (Silvex)	(93-72-1)	1.0
D043	Vinyl chloride	(75-01-4)	0.2

/1/ If o-, m-, and p-Cresol concentrations cannot be differentiated, the total cresol (D026) concentration is used.

/2/ At the time the TC rule was adopted, the quantitation limit was greater than the calculated regulatory level. The quantitation limit therefore became the regulatory level.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-100 Dangerous waste criteria. (1) Purpose. The purpose of this section is to describe methods for determining if a solid waste is a dangerous waste by the criteria set forth in this section. The dangerous waste criteria consist of:

- (a) Toxic dangerous wastes; and
- (b) Persistent dangerous wastes.

PROPOSED

(2) References. The National Institute for Occupational Safety and Health's (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS), Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is adopted by reference.

(3) A person must use data which is available to him, and, when such data is inadequate for the purposes of this section, must refer to the NIOSH RTECS to determine:

(a) Toxicity data or toxic category for each known constituent in the waste;

(b) Whether or not each known constituent of the waste is a halogenated organic compound or a polycyclic aromatic hydrocarbon as defined in WAC 173-303-040.

(4) Quantity exclusion limit. A solid waste is a dangerous waste if it meets one or more of the dangerous waste criteria described in subsections (5) and (6) of this section. If a person's solid waste meets one or more of these criteria then he or she is a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the quantity of the waste exceeds the following quantity exclusion limits:

(a) For toxic dangerous wastes designated as EHW (WT01), the quantity exclusion limit is 2.2 lbs. per month.

(b) For all other wastes designating under this section the quantity exclusion limit is 220 lbs. (100 kg) per month or per batch.

(5) Toxicity criteria. Except as provided in WAC 173-303-070 (4) or (5), a person must determine if a solid waste meets the toxicity criteria under this section by following either the instructions for book designation, when his knowledge of the waste is sufficient, or by testing the waste using the biological testing methods adopted under WAC 173-303-110(3).

(a) Except as provided in WAC 173-303-070(4), if a person knows only some of the toxic constituents in the waste or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for toxicity under this subsection.

(b) Book designation procedure. A person may determine if a waste meets the toxicity criteria by following the book designation instructions as follows:

(i) A person must determine the toxic category for each known constituent. The toxic category for each constituent may be determined from available data, or by obtaining data from the NIOSH RTECS and checking this data against the toxic category table, below. If data ((is)) are available for more than one of the toxicity criteria (fish, oral, inhalation, or dermal), then the data indicating severest toxicity must be used, and the most acutely toxic category must be assigned to the constituent. If the NIOSH RTECS or other data sources do not agree on the same category (for the same criteria), then the category arrived at using the NIOSH RTECS will be used to determine the toxic category. If toxicity data for a constituent cannot be found in the NIOSH RTECS, or other source reasonably available to a person, then the toxic category need not be determined for that constituent.

TOXIC CATEGORY TABLE

Toxic Category	Fish LC ₅₀ (mg/L)*	Oral (Rat) LD ₅₀ (mg/kg)	Inhalation (Rat) LC ₅₀ (mg/L)	Dermal (Rabbit) LD ₅₀ (mg/kg)
X	<0.01	<.5	<.02	< 2
A	0.01 - <0.1	.5 - <.5	.02 - <.2	2 - <20
B	0.1 - <1	5 - <50	.2 - <.2	20 - <200
C	1 - <10	50 - <500	2 - <20	200 - <2000
D	10 - 100	500 - 5000	20 - 200	2000 - 20,000

* The LC₅₀ data must be from an exposure period greater than or equal to twenty-four hours. LC₅₀ data from any species is acceptable, however, if salmonid LC₅₀ data is available it will supersede all other fish data. If salmonid data is unavailable but fathead minnow data is available, it will supersede all other fish species data.

Note: "Inhalation LC₅₀" means a concentration in milligrams of substance per liter of air which, when administered to the respiratory tract for four hours or less, kills within fourteen days half of a group of ten rats each weighing between 200 and 300 grams.

(ii) A person whose waste contains one or more toxic constituents must determine the equivalent concentration for the waste from the following formula:

$$\text{Equivalent Concentration (\%)} = \frac{\sum X\%}{1} + \frac{\sum A\%}{10} + \frac{\sum B\%}{100} + \frac{\sum C\%}{1000} + \frac{\sum D\%}{10,000}$$

where $\sum(X,A,B,C, \text{ or } D)\%$ is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste contains: Aldrin (A Category) - .01%; Endrin (A Category) - 1%; Benzene (D Category) - 4%; Phenol (C Category) - 2%; Dinoseb (B Category) - 5%; Water (nontoxic) - 87%. The equivalent concentration (E.C.) would be:

$$\begin{aligned} \text{E.C. (\%)} &= \frac{0\%}{1} + \frac{(0.01\% + 1.0\%)}{10} + \frac{5.0\%}{100} + \frac{2.0\%}{1000} + \frac{4.0\%}{10,000} \\ &= 0\% + 0.101\% + 0.05\% + 0.002\% + 0.0004\% = 0.1534\% \end{aligned}$$

So the equivalent concentration equals 0.1534%.

(iii) A person whose waste contains toxic constituents must determine its designation according to the value of the equivalent concentration:

(A) If the equivalent concentration is less than 0.001%, the waste is not a toxic dangerous waste; or

(B) If the equivalent concentration is equal to or greater than 0.001% and less than 1.0%, the person will designate the waste as DW and assign the dangerous waste number WT02; and

(C) If the equivalent concentration is equal to or less than 0.01%, the DW may also be a special waste; or

(D) If the equivalent concentration is equal to or greater than 1.0%, the person will designate the waste as EHW and assign the dangerous waste number WT01.

Example 1. Continued. The equivalent concentration of 0.1534% (from Example 1. above) is greater than 0.001% and less than 1.0%. The waste is DW and the dangerous waste number WT02 must be assigned. Since 0.1534% is also greater than 0.01%, the waste is not a special waste.

PROPOSED

(iv) Reserve.

(c) Designation from bioassay data. A person may determine if a waste meets the toxicity criteria by following the bioassay designation instructions of either:

(i) The DW bioassay. To determine if a waste is DW, a person must establish the toxicity category range (D category toxicity or greater toxicity) of a waste by means of the 100 mg/L acute static fish test or the 5000 mg/kg oral rat test, as described in the biological testing methods (bioassay) adopted in WAC 173-303-110(3). If data from the test indicates that the waste is DW, then the person will assign the dangerous waste number WT02. Otherwise, the waste is not regulated as toxic dangerous waste. No further testing must be done except as provided in WAC 173-303-070 (4) and (5), or if the person chooses to determine whether the waste is EHW, or in the case of state-only solid dangerous waste, if the person chooses to determine whether the waste is special waste; or

(ii) The EHW and special waste bioassay. To determine if a waste is EHW, a person must establish the toxicity category range of a waste by means of the fish bioassay at 10 mg/L or the rat bioassay at 50 mg/Kg, as described in the biological testing methods (bioassay) adopted in WAC 173-303-110(3). (NOTE: A fish bioassay at 1 mg/L corresponds with the definition of EHW, which includes toxic categories X-B. However, the fish bioassay is not reproducible at these low levels.) If data from the test indicates that the waste is EHW, then the person will assign the dangerous waste number WT01. Otherwise, the waste will be designated DW, and the person will assign the dangerous waste number WT02. A person with state-only solid waste may choose to test a waste to determine if it is special waste. Testing levels for special waste must be at 10 mg/L for the fish bioassay or 500 mg/Kg for the oral rat bioassay. No further testing must be done except as provided in WAC 173-303-070 (4) and (5), or if the person chooses to test the waste in accordance with WAC 173-303-100 (5)(c)(i) to determine if the waste is not regulated as toxic dangerous waste.

(d) If the designation acquired from book designation and bioassay data do not agree, then bioassay data will be used to designate a waste. If a waste is designated as DW or EHW following the book designation procedure, a person may test the waste by means of the biological testing methods (bioassay) adopted under WAC 173-303-110(3), using either the static acute fish or the acute oral rat method, to demonstrate that the waste is not a dangerous waste or should be designated as DW and not EHW.

(e) A waste designated as DW by toxicity criteria must be assigned the dangerous waste number of WT02. A waste designated as EHW by toxicity criteria must be assigned the dangerous waste number of WT01.

(6) Persistence criteria. For the purposes of this section, persistent constituents are chemical compounds which are either halogenated organic compounds (HOC), or polycyclic aromatic hydrocarbons (PAH), as defined under WAC 173-303-040. Except as provided in WAC 173-303-070 (4) or (5), a person may determine the identity and concentration of persistent constituents by either applying knowledge of the waste or by testing the waste according to WAC 173-303-110

(3)(c) *Chemical Testing Methods for Designating Dangerous Waste* ((February 1998)) #97-407, revised December 2004.

(a) Except as provided in WAC 173-303-070(4), if a person knows only some of the persistent constituents in the waste, or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for persistence under this subsection.

(b) When a waste contains one or more halogenated organic compounds (HOC) for which the concentrations are known, the total halogenated organic compound concentration must be determined by summing the concentration percentages for all of the halogenated organic compounds for which the concentration is known.

Example 2. A waste contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1 - trichloroethylene - .020%. The total halogenated organic compound concentration would be:

$$\text{Total HOC Concentration (\%)} = .009\% + .012\% + .020\% = .041\%$$

(c) A person whose waste contains polycyclic aromatic hydrocarbons (PAH) as defined in WAC 173-303-040, must determine the total PAH concentration by summing the concentration percentages of each of the polycyclic aromatic hydrocarbons for which they know the concentration.

Example 3. A person's waste contains: Chrysene - .08%; 3,4 - benzo(a)pyrene - 1.22%. The total polycyclic aromatic hydrocarbon concentration would be:

$$\text{Total PAH Concentration (\%)} = .08\% + 1.22\% = 1.30\%$$

(d) A person whose waste contains halogenated organic compounds and/or polycyclic aromatic hydrocarbons must determine its designation from the persistent dangerous waste table.

PERSISTENT DANGEROUS WASTE TABLE

If your waste contains...	At a total concentration level of...	Then your waste's designation, and waste # are...
Halogenated Organic Compounds (HOC)	0.01% to 1.0% greater than 1.0%	DW, WP02 EHW, WP01
Polycyclic Aromatic Hydrocarbons (PAH)	greater than 1.0%	EHW*, WP03

*No DW concentration level for PAH.

(7) Reserve.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-104 ((Generic)) State-specific dangerous waste numbers. (1) Purpose. This section sets forth the dangerous waste number for each of the dangerous waste criteria designations and for listed and characteristic waste codes that are unique to Washington state.

(2) Characteristics. A waste ((which)) that exhibits any of the dangerous waste characteristics, WAC 173-303-090, must be assigned the dangerous waste number corresponding to the characteristic(s) exhibited by the waste (see WAC 173-303-090).

For state-only solid corrosive wastes, the dangerous waste number of WSC2 must be assigned.

(3) Criteria. The following table must be used for assigning dangerous waste numbers to wastes designated by the dangerous waste criteria at WAC 173-303-100.

GENERIC DANGEROUS WASTE NUMBERS TABLE

Dangerous Waste#	Dangerous Waste Criteria and Designation
	Toxic Dangerous Wastes
WT01 _____	EHW
WT02 _____	DW
	Persistent Dangerous Wastes
	Halogenated
	Organic Compounds
WP01 _____	EHW
WP02 _____	DW
	Polycyclic Aromatic Hydrocarbons
WP03 _____	EHW

(4) State source listed PCB wastes (WAC 173-303-9904) must be assigned the dangerous waste code of WPCB.

(5) Labpacks. State-only EHW labpacks must be assigned the dangerous waste code of WL01 and DW labpacks must be assigned the waste code WL02.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-110 Sampling and testing methods. (1) Purpose. This section sets forth the testing methods to be used to comply with the requirements of this chapter. Quality control procedures specified by the testing method or an approved equivalent method must be followed for the analytical result to be considered valid for designation. All methods and publications listed in this section are incorporated by reference.

(2) Representative samples.

(a) The methods and equipment used for obtaining representative samples of a waste will vary with the type and form of the waste. The department will consider samples collected using the sampling methods below or the most recent version of such methods for wastes with properties similar to the indicated materials, to be representative samples of the wastes:

(i) Crushed or powdered material - ASTM Standard D346-75;

(ii) Extremely viscous liquid - ASTM Standard D140-70;

(iii) Fly ash-like material - ASTM Standard D2234-86;

(iv) Soil-like material - ASTM Standard D1452-80 (Reapproved 1990);

(v) Soil or rock-like material - ASTM Standard D420-93;

(vi) Containerized liquid wastes - "COLIWASA" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a), or the equivalent representative sampling method known as the plunger type sampler, described in ASTM D 5743-97, section 8.6; and,

(vii) Liquid waste in pits, ponds, lagoons, and similar reservoirs - "Pond Sampler" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a).

(b) Copies of these representative sampling methods are available from the department except for the ASTM standards and the AC & D Liquid Sampler Method which can be obtained by writing to:

ASTM
1916 Race Street
Philadelphia, PA 19103.

AC & D Liquid Sampler Method

AC & D Liquid Samplers
77 Symons Street
Richland, WA 99352

(3) Test procedures. Copies of the test procedures listed in this subsection can be obtained by writing to the appropriate address below:

For copies of Department of Ecology test methods:

Attn: Test Procedures
Hazardous Waste Section
Department of Ecology
PO Box 47600
Olympia, Washington 98504-7600

For copies of SW 846, including updates, and 40 CFR Part 261:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402
(202) 512-1800

For copies of ASTM methods:

ASTM
1916 Race Street
Philadelphia, PA 19103

For copies of APTI methods:

APTI
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161

The document titles and included test procedures are as follows:

(a) *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication, SW-846 (Third Edition (November 1986) as amended by Updates I (dated July 1992), II (dated September 1994), IIA (dated August 1993), IIB (dated January 1995), III (dated December 1996), and IIIA (dated April 1998)). The Third Edition of SW-846 and its Updates (document number 955-001-00000-1) are available from the Superintendent of Documents. Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods

Team, ((401 M Street, SW)) 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Copies of the Third Edition and all of its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605-6000 or (800) 553-6847;

(b) *Biological Testing Methods*, Department of Ecology Publication #80-12, the latest revision, describing procedures for:

- (i) Static acute fish toxicity test; and
- (ii) Acute oral rat toxicity test;

(c) *Chemical Testing Methods for Designating Dangerous Waste*, Department of Ecology Publication #97-407, ((February 1998)) revised December 2004 describing methods for testing:

- (i) Ignitability;
- (ii) Corrosivity;
- (iii) Reactivity;
- (iv) Toxicity characteristic leaching procedure;
- (v) Halogenated organic compounds; and
- (vi) Polycyclic aromatic hydrocarbons.

(d) Reserve;

(e)(i) The determination of Polychlorinated Biphenyls in Transformer Fluids and Waste Oils, EPA-600/4-81-045; and
(ii) Analysis of Polychlorinated Biphenyls in Mineral Insulating Oils by Gas Chromatography, ASTM Standard D 4059-86.

(f) 40 CFR Part 261 Appendix III *Chemical Analysis Test Methods*, which refers to appropriate analytical procedures to determine whether a sample contains a given toxic constituent in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, and 40 CFR Part 261 Appendix II, which refers to *Method 1311 Toxicity Characteristic Leaching Procedure*.

(g) The following publications for air emission standards.

(i) ASTM Standard Method for Analysis of Reformed Gas by Gas Chromatography, ASTM Standard D 1946-82.

(ii) ASTM Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), ASTM Standard D 2382-83.

(iii) ASTM Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis, ASTM Standard E 169-87.

(iv) ASTM Standard Practices for General Techniques of Infrared Quantitative Analysis, ASTM Standard E 168-88.

(v) ASTM Standard Practice for Packed Column Gas Chromatography, ASTM Standard E 260-85.

(vi) ASTM Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography, ASTM Standard D 2267-88.

(vii) ASTM Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, ASTM Standard D 2879-92.

(viii) APTI Course 415: Control of Gaseous Emissions, EPA Publication EPA-450/2-81-005, December 1981.

(ix) "API Publication 2517, Third Edition," February 1989, "Evaporative Loss from External Floating-Roof Tanks," available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005.

(x) "ASTM Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteriscope," ASTM Standard D 2879-92, available from American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

(h) The following publications:

(i) "Flammable and Combustible Liquids Code" (1977 or 1981), available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, MA 02210.

(ii) U.S. EPA, "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, EPA Publication No. EPA-450/R-92-019, Environmental Protection Agency, Research Triangle Park, NC.

(iii) "ASTM Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals," ASTM Standard E926-88, Test Method C-Bomb, Acid Digestion Method, available from American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103.

(iv) Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry. Available from NTIS, PB99-121949, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

(v) ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester, ASTM Standard D-3278-78, available from American Society for Testing and Materials.

(vi) ASTM Standard Test Methods for Flash Point by Pensky-Martens Closed Tester, ASTM Standard D-93-79 or D-93-80.

(vii) API Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof Tanks," available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005.

(4) Substantial changes to the testing methods described above will be made only after the department has provided adequate opportunity for public review and comment on the proposed changes. The department may, at its discretion, schedule a public hearing on the proposed changes.

(5) Equivalent testing methods. Any person may request the department to approve an equivalent testing method by submitting a petition, prepared in accordance with WAC 173-303-910(2), to the department.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-120 Recycled, reclaimed, and recovered wastes. (1) This section describes the requirements for persons who recycle materials that are solid wastes and dangerous. Except as provided in subsections (2) and (3) of this section, dangerous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of subsection (4) of this section. Dangerous wastes that are recycled will be known as "recyclable materials."

(2)(a) The following recyclable materials are solid wastes and sometimes are dangerous wastes. However, they are subject only to the requirements of (b) of this subsection, WAC 173-303-050, 173-303-145 and 173-303-960:

(i) Industrial ethyl alcohol that is reclaimed (except that unless provided otherwise in an international agreement as specified in 40 CFR 262.58: See export requirements at 40 CFR 261.6(3)(i)(A) and (B) that are incorporated by reference at WAC 173-303-230(1));

(ii) Reserve;

(iii) Reserved;

(iv) Scrap metal that is not excluded under WAC 173-303-071 (3)(ff);

(v) Fuels produced from the refining of oil-bearing dangerous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing dangerous wastes where such recovered oil is already excluded under WAC 173-303-071 (3)(cc));

(vi) Reserve;

(vii) Coke and coal tar from the iron and steel industry that contains dangerous waste from the iron and steel production process;

(viii)(A) Dangerous waste fuel produced from oil-bearing dangerous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such dangerous wastes, where such dangerous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under 40 CFR 279.11 (which is incorporated by reference at WAC 173-303-515(4)) and so long as no other dangerous wastes are used to produce the dangerous waste fuel;

(B) Dangerous waste fuel produced from oil-bearing dangerous waste from petroleum refining production, and transportation practices, where such dangerous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under 40 CFR 279.11 (which is incorporated by reference at WAC 173-303-515(4)); and

(C) Oil reclaimed from oil-bearing dangerous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under 40 CFR 279.11 (which is incorporated by reference at WAC 173-303-515(4)).

(b) Any recyclable material listed in (a) of this subsection will be subject to the applicable requirements listed in subsection (4) of this section if the department determines, on a case-by-case basis, that:

(i) It is being accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment; or

(ii) Due to the dangerous constituent(s) in it, any use or reuse would pose a threat to public health or the environment. Such recyclable material will be listed in WAC 173-303-016(6).

(3) The (~~following~~) recyclable materials listed in (a) through (h) of this subsection are not subject to the requirements of this section but are subject to the requirements of WAC 173-303-070 through 173-303-110, 173-303-160, 173-

303-500 through 173-303-525, and all applicable provisions of WAC 173-303-800 through 173-303-840(4).

In addition to these requirements, owners and operators of facilities that receive recyclable materials from off-site, must prepare closure plans in accordance with WAC 173-303-610 (2) and (12). These facilities are also subject to financial requirements of WAC 173-303-620 (1)(e).

(a) Recycling requirements for state-only dangerous wastes (see WAC 173-303-500);

(b) Recyclable materials used in a manner constituting disposal (see WAC 173-303-505);

(c) Spent CFC or HCFC refrigerants that are recycled on-site or sent to be reclaimed off-site (see WAC 173-303-506);

(d) Dangerous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670 (see WAC 173-303-510);

(e) Reserved;

(f) Spent lead-acid batteries that are being reclaimed (see WAC 173-303-520);

(g) Recyclable materials from which precious metals are reclaimed (see WAC 173-303-525);

(h) Spent antifreeze that is recycled on-site or sent to be recycled off-site (see WAC 173-303-522).

(4) Those recycling processes not specifically discussed in subsections (2) and (3) of this section are generally subject to regulation only up to and including storage prior to recycling. For the purpose of this section, recyclable materials received from off-site will be considered stored unless they are moved into an active recycling process within (~~twenty-four~~) seventy-two hours after being received. An active recycling process refers to a dynamic recycling operation that occurs within a recycling unit such as a distillation or centrifuge unit. The phrase does not refer to passive storage-like activities that occur, for example, when tanks or containers are used for phase separation or for settling impurities. Passive storage-like activities are not eligible for the recycling exemption under this subsection.

The recycling process itself is generally exempt from permitting unless the department determines, on a case-by-case basis, that the recycling process poses a threat to public health or the environment.

Unless specified otherwise in subsections (2) and (3) of this section:

(a) Generators of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-170 through 173-303-230;

(b) Transporters of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-240 through 173-303-270;

(c) Owners or operators of facilities that receive recyclable materials from off-site and recycle these recyclable materials without storing them before they are recycled are subject to the following requirements:

(i) WAC 173-303-060,

(ii) WAC 173-303-120 (4)(e),

(iii) WAC 173-303-283 through 173-303-290,

(iv) WAC 173-303-310 through 173-303-395,

(v) WAC 173-303-610 (2) and (12),

(vi) WAC 173-303-620 (1)(e).

(vii) WAC 173-303-630 (2) through (10), and

~~((vi)) (viii) WAC 173-303-640 (2) through (10)((; except 173-303-640 (8)(e) and the second sentence of WAC 173-303-640 (8)(a) (i.e., a recycler, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section)) except that requirements to post-closure planning or care in WAC 173-303-640(8) will not apply to closure of recycling units. In lieu of the dates in WAC 173-303-640 (2) and (4), for existing tank systems regulated under this subsection, owners and operators must complete the assessment of the tank system's integrity by June 1, 1992, and must meet the secondary containment requirements of WAC 173-303-640(4) by January 12, 1993;~~

(vii) The owner or operator must obtain data, by screening-type analysis if necessary, confirming the designation of each waste stream, such that each dangerous waste received can be effectively recycled without jeopardizing human health or the environment. The owner or operator must verify the waste designation periodically, so that it is accurate and current, but at least once every six months or on a batch basis if shipments of a specific waste stream are less frequent. Copies of all analyses and data must be retained for at least five years and made available to the department upon request.

(d) Owners and operators of facilities that store recyclable materials before they are recycled are subject to the following requirements including, but not limited to:

(i) For all recyclers, the applicable provisions of:

- (A) WAC 173-303-280 through 173-303-395,
- (B) WAC 173-303-800 through 173-303-840,
- (C) WAC 173-303-140 (2)(a),
- (D) WAC 173-303-120 (4)(e);

(ii) For recyclers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(iii) For recyclers with final facility permits, the applicable storage provisions of:

- (A) WAC 173-303-600 through 173-303-650, and
- (B) WAC 173-303-660.

(e) Owners and operators of facilities subject to dangerous waste permitting requirements with dangerous waste management units that recycle hazardous wastes are subject to the requirements of WAC 173-303-690, 173-303-691 (Air emission standards for process vents and equipment leaks), and WAC 173-303-692 (Air emission standards for tanks, surface impoundments, and containers) for final status facilities, and 40 CFR Part 265 Subparts AA, BB, and CC, incorporated by reference at WAC 173-303-400(3) for interim status facilities.

(5) Used oil that is recycled and is also a dangerous waste solely because it exhibits a dangerous waste characteristic or criteria is not subject to the requirements of this chapter except for 40 CFR Part 279 which is incorporated by reference at WAC 173-303-515. Used oil that is recycled includes any used oil that is reused, following its original use, for any purpose (including the purpose for which the oil was originally used). Such term includes, but is not limited to, oil

that is re-refined, reclaimed, burned for energy recovery, or reprocessed.

(6) Hazardous waste that is exported to or imported from designated member countries of the Organization for Economic Cooperation and Development (OECD) (as defined in 40 CFR 262.58(a)(1)) for purpose of recovery is subject to the requirements of 40 CFR part 262, subpart H, if it is subject to either the manifesting requirements at WAC 173-303-180 or to the universal waste management standards of WAC 173-303-573.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-161 Overpacked containers (lab-packs). Small containers of dangerous waste may be placed in overpacked drums (or labpacks) provided that the following conditions are met:

(1) Dangerous waste must be packaged in nonleaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the contained waste. Inside containers must be tightly and securely sealed and, to the extent possible, should be full and have as little air as possible in them to minimize voids. The inside containers must be of the size and type specified in the Department of Transportation (DOT) hazardous materials regulations (49 CFR Parts 173, 178, and 179), if those regulations specify a particular inside container for the waste;

(2) The inside containers must be overpacked in an open head DOT-specification drum shipping container which meets all of the requirements of 49 CFR Parts 173, 178, and 179. The overpack container must not exceed a capacity of 416-liter (110 gallon). The overpack container must have a sufficient quantity of sorbent material to completely sorb all of the liquid contents of the inside containers. The sorbent in overpack containers to be placed in a landfill must be nonbiodegradable in accordance with WAC 173-303-140 (4)(b)(iv). The outer container must be full after it has been packed with inside containers and sorbent material;

(3) The sorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers, in accordance with WAC 173-303-395 (1)(b);

(4) Incompatible wastes, as defined in WAC 173-303-040, must not be placed in the same outside container; and

(5) Reactive wastes, other than cyanide- or sulfide-bearing waste as defined in WAC 173-303-090 (7)(a)(v), must be treated or rendered nonreactive prior to packaging in accordance with subsections (1) through (4) of this section. Cyanide- and sulfide-bearing reactive waste may be packed in accordance with subsections (1) through (4) of this section without first being treated or rendered nonreactive.

(6) An itemized listing of the chemicals, their concentrations and quantities per labpack must be kept by the generator for five years and must be readily available in case of an emergency during shipment, and for the purposes of preparing annual reports under WAC 173-303-220.

(7) Such disposal is in compliance with the requirements of WAC 173-303-140 (2)(a). Persons who incinerate lab-

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packs according to the requirements in 40 CFR 268.42(c)(1) (incorporated by reference at WAC 173-303-140 (2)(a)) may use fiber drums in place of metal outer containers. Such fiber drums must meet the DOT specifications in 49 CFR 173.12 and be overpacked according to the requirements in subsection (2) of this section.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-170 Requirements for generators of dangerous waste. (1) A person is a dangerous waste generator if their solid waste is designated by the requirements of WAC 173-303-070 through 173-303-100.

(a) The generator is responsible for designating their waste as DW or EHW.

(b) The generator may request an exemption for their dangerous waste according to the procedures of WAC 173-303-072.

(2) A dangerous waste generator must notify the department and obtain an EPA/state identification number as required by WAC 173-303-060, and must comply with the requirements of WAC 173-303-170 through 173-303-230.

(3) Any generator who stores, treats, or disposes of dangerous waste on-site must perform their operations in accordance with the TSD facility requirements with the following exceptions:

(a) Generators who accumulate dangerous wastes for less than ninety days as allowed under WAC 173-303-200 or for less than one hundred eighty days as allowed under WAC 173-303-201 and 173-303-202;

(b) Generators who treat dangerous waste on-site in accumulation tanks, containers, and containment buildings provided that the generator maintains a log showing the date and amount of waste treated and complies with:

(i) The applicable requirements of WAC 173-303-200, 173-303-201, and 173-303-202; and

(ii) WAC 173-303-283(3);

(c) Generators who treat special waste on-site provided:

(i) The accumulation standards of WAC 173-303-073 (2)(a) and (b) are met;

(ii) When treated in units other than tanks or containers, the unit is designed, constructed, and operated in a manner that prevents:

(A) A release of waste and waste constituents to the environment;

(B) Endangerment of health of employees or the public;

(C) Excessive noise;

(D) Negative aesthetic impact on the use of adjacent property.

(iii) The treatment unit must also be inspected routinely for deterioration that would lead to a release and repairs must be conducted promptly.

(4) The generator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

(5) Persons responding to an explosives or munitions emergency in accordance with WAC 173-303-400 (2)(c)(xiii)(A)(IV) or 173-303-600 (3)(p)(i)(D) or (3)(p)(iv), and WAC 173-303-800 (7)(c)(i)(D) or (7)(c)(i)(E) are not

required to comply with the standards of WAC 173-303-170 through 173-303-230.

(6) Any person who exports or imports hazardous waste subject to the manifesting requirements of WAC 173-303-180 or to the universal waste management standards of WAC 173-303-573, to or from the countries listed in 40 CFR 262.58 (a)(1) for recovery must comply with 40 CFR 262 subpart H. 40 CFR 262 subpart H is incorporated by reference at WAC 173-303-230(1).

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-190 Preparing dangerous waste for transport. The generator must fulfill the following requirements before transporting off-site or offering for off-site transport any dangerous waste.

(1) Packaging. The generator must package all dangerous waste for transport in accordance with United States DOT regulations on packaging, 49 CFR Parts 173, 178, and 179.

(2) Labeling. The generator must label each package in accordance with United States DOT regulations, 49 CFR Part 172.

(3) Marking. The generator must:

(a) Mark each package of dangerous waste in accordance with United States DOT regulations, 49 CFR Part 172; and

(b) Mark each package containing one hundred ten gallons or less of dangerous waste with the following, or equivalent words and information, displayed in accordance with 49 CFR 172.304:

HAZARDOUS WASTE - State and federal law prohibits improper disposal. If found, contact the nearest police or public safety authority, and the Washington state department of ecology or the United States Environmental Protection Agency.

Generator's Name and Address

.....
.....
.....

Manifest Document Number

.....

(4) Placarding. The generator will placard, or offer to the initial transporter all appropriate placards in accordance with United States DOT regulations, 49 CFR Part 172, Subpart F.

(5) State-only dangerous waste that is not regulated as a hazardous waste under 40 CFR Part 261 or as a hazardous material under 49 CFR must fulfill the following requirements before transport:

(a) Package in a nonleaking, nonsieveable container or in a package that is equivalent to the manufacturing and testing specifications for packagings and containers of 49 CFR Parts 173, 178 and 179.

(b) Mark each package containing one (~~hundred ten~~) thousand gallons or less with the following:

(i) Washington State Dangerous Waste-State law prohibits improper disposal. If found, contact the nearest police or public safety authority, and the Washington State Depart-

ment of Ecology. The generator's name and address and manifest number must also be included; and

(ii) The state shipping description as described in WAC 173-303-180(7).

(c) Use of any other markings for a state-only dangerous waste is prohibited.

(6) State-only dangerous waste that is also regulated as a hazardous material under 49 CFR must be packaged, labeled and marked in accordance with WAC 173-303-190 (1), (2), (3) and (5)(b)(i).

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-200 Accumulating dangerous waste on-site. (1) A generator, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on-site without a permit for ninety days or less after the date of generation, provided that:

(a) All such waste is shipped off-site to a designated facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845 or recycled or treated on-site in ninety days or less. The department may, on a case-by-case basis, grant a maximum thirty day extension to this ninety day period if dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances. A generator who accumulates dangerous waste for more than ninety days is an operator of a storage facility and is subject to the facility requirements of this chapter and the permit requirements of this chapter as a storage facility unless he has been granted an extension to the ninety day period allowed pursuant to this subsection;

(b)(i) The waste is placed in containers and the generator complies with WAC 173-303-630 (2), (3), (4), (5), (6), (8), (9), (10), and 40 CFR Part 265 Subparts AA, BB, and CC incorporated by reference at WAC 173-303-400 (3)(a). For container accumulation (including satellite areas as described in subsection (2) of this section), the department may require that the accumulation area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being accumulated, or due to a history of spills or releases from accumulated containers. In addition, any new container accumulation areas (but not including new satellite areas, unless required by the department) constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7); and/or

(ii) The waste is placed in tanks and the generator complies with 40 CFR Part 265 Subparts AA, BB, and CC incorporated by reference at WAC 173-303-400 (3)(a) and 173-303-640 (2) through (10), except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a). (Note: A generator, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section.) Such a generator is exempt from the requirements of WAC 173-303-620 and 173-303-610, except for WAC 173-303-610 (2) and (5); and/or

(iii) The waste is placed on drip pads and the generator complies with WAC 173-303-675 and maintains the following records at the facility:

(A) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or

(iv) The waste is placed in containment buildings and the generator complies with 40 CFR Part 265 Subpart DD, which is incorporated by reference, and the generator has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility's operating record no later than sixty days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than ninety days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the ninety-day limit, and documentation that the procedures are complied with; or

(B) Documentation that the unit is emptied at least once every 90 days.

In addition, such a generator is exempt from all the requirements in WAC 173-303-610 and 173-303-620, except for WAC 173-303-610(2) and WAC 173-303-610(5).

(c) The date upon which each period of accumulation begins is marked and clearly visible for inspection on each container;

(d) While being accumulated on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate). The department may also require that a sign be posted at each entrance to the accumulation area, bearing the legend, "danger—unauthorized personnel keep out," or an equivalent legend, written in English, and legible from a distance of twenty-five feet or more; and

(e) The generator complies with the requirements for facility operators contained in:

(i) WAC 173-303-330 through 173-303-360 (personnel training, preparedness and prevention, contingency plan and emergency procedures, and emergencies) except for WAC 173-303-355 (SARA Title III coordination); and

(ii) WAC 173-303-320 (1), (2)(a), (b), (d), and (3) (general inspection); and

(f) The generator complies with 40 CFR 268.7(a)(5).

(2) Satellite accumulation.

(a) A generator may accumulate as much as fifty-five gallons of dangerous waste or one quart of acutely hazardous waste per waste stream in containers at or near any point of

generation where waste initially accumulates (defined as a satellite accumulation area in WAC 173-303-040). The satellite area must be under the control of the operator of the process generating the waste or secured at all times to prevent improper additions of wastes to a satellite container. Satellite accumulation is allowed without a permit provided the generator:

(i) Complies with WAC 173-303-630 (2), (4), (5) (a) and (b), (8)(a), and (9) (a) and (b); and

(ii) Complies with subsection (1)(d), (e), and (f) of this section.

(b) When fifty-five gallons of dangerous waste or one quart of acutely hazardous waste is accumulated per waste stream, the container(s) must be marked immediately with the accumulation date and moved within three days to a designated storage or accumulation area.

(c) On a case-by-case basis the department may require the satellite area to be managed in accordance with all or some of the requirements under subsection (1) of this section, if the nature of the wastes being accumulated, a history of spills or releases from accumulated containers, or other factors are determined by the department to be a threat or potential threat to human health or the environment.

(3) For the purposes of this section, the ninety-day accumulation period begins on the date that:

(a) The generator first generates a dangerous waste; or

(b) The quantity (or aggregated quantity) of dangerous waste being accumulated by a small quantity generator first exceeds the accumulation limit for such waste (or wastes); or

(c) Fifty-five gallons of dangerous waste or one quart of acutely hazardous waste, per waste stream, is accumulated in a satellite accumulation area.

(4)(a) A generator who generates 2200 pounds or greater of dangerous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the dangerous waste code F006, may accumulate F006 waste on-site for more than ninety days, but not more than one hundred eighty days without a permit or without having interim status provided that:

(i) The generator has implemented pollution prevention practices that reduce the amount of any dangerous substances, pollutants or contaminants entering F006 or otherwise released to the environment prior to its recycling;

(ii) The F006 waste is legitimately recycled through metals recovery;

(iii) No more than 44,000 pounds of F006 waste is accumulated on-site at any one time; and

(iv) The F006 waste is managed in accordance with the following:

(A) The F006 waste is placed:

(I) In containers and the generator complies with the applicable requirements of WAC 173-303-630 (2), (3), (4), (5), (6), (8), (9), (10), and 40 CFR Part 265 Subparts AA, BB, and CC incorporated by reference at WAC 173-303-400 (3)(a); and/or

(II) In tanks and the generator complies with the applicable requirements of 40 CFR Part 265 Subparts AA, BB, and CC incorporated by reference at WAC 173-303-400 (3)(a) and 173-303-640 (2) through (10), except WAC 173-303-640

(8)(c) and the second sentence of WAC 173-303-640 (8)(a); and/or

(III) In containment buildings and the generator complies with subpart DD of 40 CFR part 265 which is incorporated by reference at WAC 173-303-400(3), and has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility's operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:

• A written description of procedures to ensure that the F006 waste remains in the unit for no more than one hundred eighty days, a written description of the waste generation and management practices for the facility showing that they are consistent with the one hundred eighty-day limit, and documentation that the generator is complying with the procedures; or

• Documentation that the unit is emptied at least once every one hundred eighty days.

(B) In addition, such a generator is exempt from all the requirements in subparts G and H of 40 CFR part 265, except for 265.111 and 265.114 which are incorporated by reference at WAC 173-303-400(3).

(C) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(D) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Dangerous Waste"; and

(E) The generator complies with the requirements for owners or operators in WAC 173-303-330, 173-303-340, and 173-303-350, and with 40 CFR 268.7 (a)(5) which is incorporated by reference at WAC 173-303-140 (2)(a).

(b) A generator who generates 2200 pounds or greater of dangerous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the dangerous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on-site for more than ninety days, but not more than two hundred seventy days without a permit or without having interim status if the generator complies with the requirements of (a)(i) through (iv) of this subsection.

(c) A generator accumulating F006 in accordance with (a) and (b) of this subsection who accumulates F006 waste on-site for more than one hundred eighty days (or for more than two hundred seventy days if the generator must transport this waste, or offer this waste for transportation, over a distance of two hundred miles or more), or who accumulates more than 44,000 pounds of F006 waste on-site is an operator of a storage facility and is subject to the facility and permit requirements of this chapter unless the generator has been granted an extension to the one hundred eighty-day (or two hundred seventy-day if applicable) period or an exception to the 44,000 pound accumulation limit. Such extensions and exceptions may be granted by the department if F006 waste must remain on-site for longer than one hundred eighty days (or two hundred seventy days if applicable) or if more than 44,000 pounds of F006 waste must remain on-site due to

unforeseen, temporary, and uncontrollable circumstances. An extension of up to thirty days or an exception to the accumulation limit may be granted at the discretion of the department on a case-by-case basis.

(5) National environmental performance track. 40 CFR Part 262.34 (j), (k), and (l) are incorporated by reference, except that:

(a) 262.34(j)(3)(i) (container management) is replaced with the first sentence of WAC 173-303-200 (1)(b)(i) and WAC 173-303-630(7) (secondary containment); and

(b) 262.34(j)(3)(ii) (tank standards) is replaced with WAC 173-303-200 (1)(b)(ii); and

(c) 262.34(j)(3)(iii) (drip pads) is replaced with WAC 173-303-200 (1)(b)(iii), except for (A) and (B); and

(d) 262.34(j)(6) is replaced with WAC 173-303-200 (1)(c) and (d); and

(e) The first sentence of 262.34 (j)(7) is replaced with WAC 173-303-200 (1)(e) and (f). The second sentence is replaced with: In addition, the generator is exempt from all the requirements of WAC 173-303-610 and 173-303-620, except for WAC 173-303-610 (2) and (5). However, where drip pads are subject to closure requirements in WAC 173-303-675(6), the applicable portions of WAC 173-303-610 and WAC 173-303-620 continue to apply.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-201 Special accumulation standards.

(1) This section applies to persons who generate more than 220 pounds but less than 2200 pounds per calendar month and do not accumulate on-site more than 2200 pounds of dangerous waste. The special provisions of this section do not apply to acutely hazardous wastes or Toxic EHW (WT01) that exceed the QEL that are being generated or accumulated by the generator.

(2) For purposes of accumulating dangerous waste on-site, persons who generate no more than 2200 pounds per month or who accumulate on-site no more than 2200 pounds of dangerous waste at any one time are subject to all applicable provisions of WAC 173-303-200 except as follows:

(a) In lieu of the ninety-day accumulation period, dangerous wastes may be accumulated for one hundred eighty days or less. The department may, on a case-by-case basis, grant a maximum ninety-day extension to this one hundred eighty-day period if the generator must transport his waste, or offer his waste for transportation, over a distance of two hundred miles or more for off-site treatment, storage, or disposal, and the dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances;

(b) The generator need not comply with WAC 173-303-330 (Personnel training);

(c) In lieu of the contingency plan and emergency procedures required by WAC 173-303-350 and 173-303-360, the generator must comply with the following:

(i) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency

response measures specified in (c)(iv) of this subsection. This employee is the emergency coordinator.

(ii) The generator must post the following information next to all emergency communication devices (including telephones, two-way radios, etc.):

(A) The name and telephone number of the emergency coordinator;

(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(C) The telephone number of the fire department, unless the facility has a direct alarm.

(iii) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(A) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(B) In the event of a spill, contain the flow of dangerous waste to the extent possible, and as soon as is practicable, clean up the dangerous waste and any contaminated materials or soil;

(C) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached waters of the state, the generator must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their twenty-four hour toll free number 800/424-8802). The report must include the following information:

(I) The name, address, and EPA/state identification number of the generator;

(II) Date, time, and type of incident (e.g., spill or fire);

(III) Quantity and type of hazardous waste involved in the incident;

(IV) Extent of injuries, if any; and

(V) Estimated quantity and disposition of recovered materials, if any;

(d) For waste that is placed in tanks, generators must comply with WAC 173-303-202 in lieu of WAC 173-303-200 (1)(b);

(e) ~~(The generator must comply with WAC 173-303-630 (1), (2), (4), (5), (6), and (9).)~~ The generator does not need to comply with 40 CFR Part 265.176 and 178.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-210 Generator recordkeeping. (1) The generator must keep a copy of each manifest signed by the initial transporter in accordance with WAC 173-303-180(3); manifest procedures, for three years, or until he receives a signed copy from the designated facility which received the waste. The signed facility copy must be retained for at least five years from the date the waste was accepted by the initial transporter.

(2) The generator must keep a copy of each annual report and exception report as required by WAC 173-303-220 for a

period of at least five years from the due date of each report. The generator must keep a copy of his most recent (~~notification (Form 2))~~ **Dangerous Waste Site Identification Form** until he is no longer defined as a generator under this chapter.

(3) Waste designation records.

(a) The generator must keep records of any test results, waste analyses, or other determinations made in accordance with WAC 173-303-170(1) for designating dangerous waste for at least five years from the date that the waste was last transferred for on-site or off-site treatment, storage, or disposal.

(b) At a minimum, test results must include:

(i) The sample source, sampling date, and sampling procedure used;

(ii) The laboratory performing the test;

(iii) The testing date, and testing method used;

(iv) The analytical result, or the quantitative range of the testing method for analytes not detected.

(4) Any other records required for generators accumulating wastes on-site as described in WAC 173-303-200 or 173-303-201 must be retained for at least five years, including, but not limited to such items as inspection logs.

(5) The periods of retention for any records described in this section will be automatically extended during the course of any unresolved enforcement action requiring those records or upon request by the director.

(6) All generator records, including plans required by this chapter, will be made available and furnished upon request by the director.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-220 Generator reporting. The generator must submit the following reports to the department by the specified due date for each report, or within the time period allowed for each report.

(1) Annual reports.

(a) A generator or any person who has obtained an EPA/state identification number pursuant to WAC 173-303-060 must submit an annual report to the department, on the Dangerous Waste Annual Report according to the instructions on the form (copies are available from the department), no later than March 1 for the preceding calendar year.

(b) In addition, any generator who stores, treats, or disposes of dangerous waste on-site must comply with the annual reporting requirements of WAC 173-303-390, Facility reporting except for WAC 173-303-390 (2)(g) and (h).

Reporting for exports of hazardous waste is required on the annual report form. In addition, a separate annual report requirement is set forth at 40 CFR 262.56, which is incorporated by reference at WAC 173-303-230(1).

(2) Exception reports.

(a) A generator who does not receive a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within thirty-five days of the date the waste was accepted by the initial transporter must contact the transporter(s) and/or facility to determine the status of the dangerous waste shipment.

(b) A generator must submit an exception report to the department if he has not received a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within forty-five days of the date the waste was accepted by the initial transporter.

(c) The exception report must include:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery; and

(ii) A cover letter signed by the generator or his representative explaining the efforts taken to locate the waste and the results of those efforts.

(d) The department may require a generator to submit exception reports in less than forty-five days if it finds that the generator frequently or persistently endangers public health or the environment through improper waste shipment practices.

(3) Additional reports. The director, as he deems necessary under chapter 70.105 RCW, may require a generator to furnish additional reports (including engineering reports, plans, and specifications) concerning the quantities and disposition of the generator's dangerous waste.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-230 Special conditions. (1) Exporting dangerous waste.

Federal export requirements, administered by EPA, are set forth at 40 CFR 262 Subparts E and H and 40 CFR ((261.5)), 261.6(a)(3)(i)(A) and (B), ~~((262.41, and 263.20))~~ and specify the procedures applicable to generators and transporters of hazardous waste (as defined in WAC 173-303-040). These requirements are incorporated by reference. Copies of any forms or reports submitted to the administrator of United States EPA as required by 40 CFR 262 Subpart E must also be submitted to the department.

(2) Importing dangerous waste. When importing dangerous waste from a foreign country into Washington state, the United States importer must comply with all the requirements of this chapter for generators, including the requirements of WAC 173-303-180(1), except that:

(a) In place of the generator's name, address and EPA/state identification number, the name and address of the foreign generator and the importer's name, address and EPA/state identification number must be used; and

(b) In place of the generator's signature on the certification statement, the United States importer or his agent must sign and date the certification and obtain the signature of the initial transporter.

(c) A person who imports hazardous waste must obtain the manifest form from the consignment state if the state supplies the manifest and requires its use. If the consignment state does not supply the manifest form, then the manifest form may be obtained from any source.

(3) Empty containers. For the purposes of this chapter, a person who stores, treats, disposes, transports, or offers for transport empty containers of dangerous waste that were for his own use will not be treated as a generator or as a facility owner/operator if the containers are empty as defined in WAC 173-303-160(2), and either:

(a) The rinsate is not a dangerous waste under this chapter; or

(b) He reuses the rinsate in a manner consistent with the original product or, if he is a farmer and the rinsate contains pesticide residues, he reuses or manages the rinsate in a manner consistent with the instructions on the pesticide label, provided that when the label instructions specify disposal or burial, such disposal or burial must be on the farmer's own (including rented, leased or tenanted) property.

(4) Tank cars. A person rinsing out dangerous waste tote tanks, truck or railroad tank cars must handle the rinsate according to this chapter, and according to chapter 90.48 RCW, Water pollution control.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-240 Requirements for transporters of dangerous waste. (1) Applicability. This section establishes standards that apply to persons transporting dangerous waste and transporters who own or lease and operate a transfer facility.

(2) A transporter must have a current EPA/state ID#. Transporters must comply with the notification and identification requirements of WAC 173-303-060. A transporter who has previously obtained an EPA/state ID# in another state is not required to obtain a new ID# when operating in Washington state. Transporters who must comply with the generator requirements as a result of a spill at a transfer facility or during transport must obtain a separate generator EPA/state ID# for the spill.

(3) Any person who transports a dangerous waste must comply with the requirements of WAC 173-303-240 through 173-303-270, when the dangerous waste must be manifested in accordance with WAC 173-303-180.

(4) Any person who transports a dangerous waste must also comply with the requirements of WAC 173-303-170 through 173-303-230 for generators, if he:

(a) Transports dangerous waste into the state from another country; or

(b) Mixes dangerous waste of different United States DOT shipping descriptions by mixing them into a single container.

(5) These requirements do not apply to on-site (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by owners or operators of permitted TSD facilities.

(6) Transfer facility. The requirements of this subsection apply to a transporter or marine terminal operator who owns or leases and operates a transfer facility. Transfer of a shipment of dangerous waste from one transport vehicle to another transport vehicle, from one container to another container, and from one transporter to another transporter and any ten-day storage activities may only occur at a transfer facility that is registered with the department. A transporter may store manifested shipments of dangerous waste in containers meeting the requirements of WAC 173-303-190 (1), (2), (3), and (5) for ten days or less at a transfer facility: Provided, That he or she complies with the following:

(a) A transporter who owns or leases and operates a transfer facility within Washington that is related to their dangerous waste transportation activities must register with the department. Washington registration is not required for a transporter whose activities are limited to passing through Washington with shipments of dangerous waste or picking up shipments from Washington generators or delivering shipments to designated treatment, storage or disposal facilities. In order to obtain registration, a transporter must complete a (~~Notification of Dangerous Waste Activities Form 2 per Form 2~~) Dangerous Waste Site Identification Form according to the instructions and submit it to the department;

(b) Maintains ten-day storage records that include the dates that a manifested shipment of dangerous waste entered the facility and departed the facility. The ten-day records must be retained for a period of three years from the date the shipment was transported from the transfer facility;

(c) WAC 173-303-310 (1) and (2), Security. Instead of WAC 173-303-310(2) for an enclosed or an open flatbed transport vehicle parked at a transfer facility that has no twenty-four-hour surveillance system or natural or artificial barrier, the transport vehicle must meet the placarding requirements of 49 CFR Part 172 and be secured (that is, locked) or the shipment must be transferred to a secured area of the facility to prevent unknowing entry and minimize unauthorized entry;

(d) WAC 173-303-320, General inspection. Instead of keeping inspection records for a period of five years from the date of inspection in WAC 173-303-320 (2)(d), inspection records must be kept at the transfer facility for one year from the date of inspection;

(e) WAC 173-303-330, Personnel training;

(f) WAC 173-303-340, Preparedness and prevention except WAC 173-303-340(3), Aisle space;

(g) WAC 173-303-350, Contingency plan and emergency procedures;

(h) WAC 173-303-360, Emergencies;

(i) WAC 173-303-630 (2), (3), (4), (5)(a) and (b), (8), (9)(a) and (b) and (10), Use and management of containers;

(j) WAC 173-303-630(7) in areas where waste is transferred from container to container and in areas where containers are stored outside in the weather. The secondary containment system must be completed by October 15, 2001. The department may, on a case-by-case basis, grant an extension to the required completion date if the transporter has a design and has entered into binding financial or other agreements for construction prior to October 15, 2001;

(k) The requirements of WAC 173-303-630(7) may be required in areas other than those described in WAC 173-303-240 (6)(j) if the department determines that there is a potential threat to public health and the environment due to the nature of the wastes being stored or due to a history of spills or releases from waste stored in containers.

(7) Transporter exemptions. A transporter will not be required to comply with the following:

(a) The requirements of WAC 173-303-240(6) in the event of an emergency or other unforeseen event beyond the reasonable control of the transporter during transit over public highway, rail track or water route and the waste shipment

is loaded, reloaded or transferred to another transport vehicle or container to facilitate transportation;

(b) The requirements of WAC 173-303-240 (6)(i) and (j) for dangerous waste that is stored in a secured, enclosed transport vehicle, intermodal container or portable tank during the time it is parked at a transfer facility;

(c) The requirements of WAC 173-303-240 (6)(i) and (j) for a transfer facility that is located at a pier, dock or barge unloading facility and associated with the loading and unloading of water vessels: Provided, That the dangerous waste shipment is stored within a transport unit, as defined under 49 CFR Part 176, and accepted by the approval authority of the United States Coast Guard;

(d) The requirements of WAC 173-303-240 (6)(j) for dangerous waste that is stored within a building: Provided, That the floor is compatible with and sufficiently impervious to the waste stored and is designed and operated so that any release or spill will be captured within the building and will prevent any waste from migrating to the soil, ground water or surface water.

(8) A transporter who accumulates or stores manifested shipments of dangerous waste for more than ten days at a transfer facility is subject to the dangerous waste management facility general requirements and permit requirements of this chapter with respect to the storage of those wastes.

(9) Reference to WAC 173-303-200 in WAC 173-303-240(4) does not constitute authority for storage in excess of ten days for a transporter who owns or leases and operates a transfer facility.

(10) The regulations in WAC 173-303-250 through 173-303-260 do not apply to transportation during an explosives or munitions emergency response, conducted in accordance with WAC 173-303-400 (2)(c)(xiii)(A)(IV) or (xiii)(D) or WAC 173-303-600 (3)(p)(i)(D) or (3)(p)(iv), and WAC 173-303-800 (7)(c)(i)(C) or (D).

(11) A transporter of hazardous waste subject to the manifesting requirements of WAC 173-303-180 or to the universal waste management standards of WAC 173-303-573, that is being imported from or exported to any of the countries listed in 40 CFR 262.58 (a)(1) for purposes of recovery is subject to this section and to all other relevant requirements of 40 CFR subpart H part 262, including, but not limited to, 40 CFR 262.84 for tracking documents. 40 CFR subpart H is incorporated by reference at WAC 173-303-230(1).

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-250 Dangerous waste acceptance, transport, and delivery. (1) A transporter must not accept dangerous waste from a generator unless it is accompanied by a manifest signed by the generator in accordance with WAC 173-303-180, Manifest.

In the case of exports other than those subject to 40 CFR subpart H part 262 (which is incorporated by reference at WAC 173-303-230(1)), a transporter may not accept such waste from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgment of Consent; and unless, in addition to a manifest signed in accordance with the provisions of WAC 173-303-180, such

waste is also accompanied by an EPA Acknowledgment of Consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements of 40 CFR subpart H part 262, a transporter may not accept hazardous waste without a tracking document that includes all information required by 40 CFR 262.84.

(2) Before transporting a dangerous waste shipment, the transporter must sign and date the manifest, acknowledging acceptance of the dangerous waste. The transporter shall return a signed copy to the generator before commencing transport.

(3) The transporter must insure that the manifest accompanies the dangerous waste shipment.

(4) A transporter who delivers a dangerous waste to another transporter, or to the designated facility must:

(a) Obtain the date of delivery and the handwritten signature of that transporter or designated facility owner/operator on the manifest;

(b) Retain one copy of the manifest in accordance with WAC 173-303-260, Transporter recordkeeping; and

(c) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(5) The transporter must deliver the entire quantity of dangerous waste which he has accepted from a generator or a transporter to:

(a) The designated facility listed on the manifest; or

(b) The alternate designated facility, if the dangerous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(c) The next designated transporter; or

(d) The place outside the United States designated by the generator.

(6) If the dangerous waste cannot be delivered in accordance with subsection (5) of this section, the transporter must contact the generator for further directions, and must revise the manifest according to the generator's instructions.

(7) The requirements of subsections (3), (4), and (8) of this section do not apply to water (bulk shipment) transporters if:

(a) The dangerous waste is delivered by water (bulk shipment) to the designated facility;

(b) A shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator certification, and signatures) accompanies the dangerous waste;

(c) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper;

(d) The person delivering the dangerous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

(e) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with WAC 173-303-260(2).

(8) For shipments involving rail transportation, the requirements of subsections (3), (4), and (7) of this section do not apply and the following requirements do apply.

PROPOSED

(a) When accepting dangerous waste from a nonrail transporter, the initial rail transporter must:

(i) Sign and date the manifest acknowledging acceptance of the dangerous waste;

(ii) Return a signed copy of the manifest to the nonrail transporter;

(iii) Forward at least three copies of the manifest to:

(A) The next nonrail transporter, if any; or

(B) The designated facility, if the shipment is delivered to that facility by rail; or

(C) The last rail transporter designated to handle the waste in the United States;

(iv) Retain one copy of the manifest and rail shipping paper in accordance with WAC 173-303-260(2).

(b) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator certification, and signatures) accompanies the dangerous waste at all times.

(c) When delivering dangerous waste to the designated facility, a rail transporter must:

(i) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

(ii) Retain a copy of the manifest or signed shipping paper in accordance with WAC 173-303-260(2).

(d) When delivering dangerous waste to a nonrail transporter a rail transporter must:

(i) Obtain the date of delivery and the handwritten signature of the next nonrail transporter on the manifest; and

(ii) Retain a copy of the manifest in accordance with WAC 173-303-260(2).

(e) Before accepting dangerous waste from a rail transporter, a nonrail transporter must sign and date the manifest and provide a copy to the rail transporter.

(9) Transporters who transport dangerous waste out of the United States must:

(a) Indicate on the manifest the date the dangerous waste left the United States;

(b) Sign the manifest and retain one copy in accordance with WAC 173-303-260(3), Transporter recordkeeping; and

(c) Return a signed copy of the manifest to the generator.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-290 Required notices. (1)(a) The facility owner or operator who is receiving dangerous waste from sources outside the United States must notify the appropriate regional office of the department annually, and in writing at least four weeks in advance of the date the first shipment of waste is expected to arrive at the facility. The notification must be in writing, signed by the importer and operator of the receiving facility, and include the following information:

((a)) (i) Name, street address, mailing address, and telephone number of the exporter.

((b)) (ii) Name, street address, mailing address, telephone number, and EPA/state ID number of the importer and receiving facility.

((c)) (iii) A description of the dangerous waste and the EPA/state waste numbers, U.S. DOT proper shipping name, hazard class and ID number (UNNA) for each hazardous waste as identified in 49 CFR Parts 171 through 177.

((d)) (iv) The estimated frequency or rate at which such waste is to be imported and the period of time over which such waste is to be imported.

((e)) (v) The estimated total quantity of the dangerous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form (8700-22).

((f)) (vi) A description of the manner by which the dangerous waste will be treated, stored, disposed of, or recycled by the receiving facility.

Upon request by the department, the importer and/or receiving facility must furnish to the department any additional information regarding the importation of dangerous waste.

(b) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to 40 CFR part 262, subpart H (incorporated by reference at WAC 173-303-230(1)) must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; and to the competent authorities of all other concerned countries within three working days of receipt of the shipment. The original of the signed tracking document must be maintained at the facility for at least three years.

(2) Before transferring ownership or operation of a facility during its active life or post-closure care period, the owner or operator must notify the new owner or operator in writing of the requirements of this chapter 173-303 WAC.

(3) The owner or operator of a facility that receives dangerous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that he has the appropriate permit(s) for, and will accept, the waste the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record required under WAC 173-303-380(1).

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-300 General waste analysis. (1) Purpose. This section requires the facility owner or operator to confirm his knowledge about a dangerous waste before he stores, treats, or disposes of it. The purpose for the analysis is to insure that a dangerous waste is managed properly.

(2) The owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), before he stores, treats, or disposes of it. This analysis must contain the information necessary to manage the waste in accordance with the requirements of this chapter (~~(173-303-WAC)~~). The analysis (~~may~~) must include or consist of either existing published or documented data on the dangerous waste, or on analytical data from waste gener-

ated from similar processes, or data obtained by testing, ((if necessary)) or a combination of these.

(a) When a dangerous waste management facility uses information or knowledge from the generator to complete a waste profile for a waste instead of direct analysis of a sample, that information must meet the definition of "knowledge" as defined in WAC 173-303-040. To confirm the reliability of the information or knowledge, the facility must do one or more of the following, as applicable:

(i) Be familiar with the generator's processes by conducting site visits, and reviewing sampling data and other information provided by the generator to ensure they are adequate for safe management of the waste;

(ii) Ensure waste analysis contained in documented studies on the generator's waste is based on representative and appropriate sampling and test methods;

(iii) Compare the generator's waste generating process to documented studies of similar waste generating processes to ensure the waste profile is accurate and current.

(b) As required in WAC 173-303-380 (1)(c), records must be retained containing specific information that show compliance with this subsection for adequate information on the waste whether the owner or operator conducts direct testing on the waste or relies on knowledge from the generator.

(3) The owner or operator of an off-site facility must confirm, by analysis if necessary, that each dangerous waste received at the facility matches the identity of the waste specified on the accompanying manifest or shipping paper.

(4) Analysis must be repeated as necessary to ensure that it is accurate and current. At a minimum, analysis must be repeated:

(a) When the owner or operator has been notified, or has reason to believe, that the process or operation generating the dangerous waste, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), has significantly changed; and

(b) When a dangerous waste received at an off-site facility does not match the identity of the waste specified on the manifest or the shipping paper.

(5) Waste analysis plan. The owner or operator must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section. He must keep this plan at the facility, and the plan must contain at least:

(a) The parameters for which each dangerous waste, or nondangerous waste if applicable under WAC 173-303-610 (4)(d), will be analyzed, and the rationale for selecting these parameters (i.e., how analysis for these parameters will provide sufficient information on the waste's properties to comply with subsections (1) through (4) of this section);

(b) The methods of obtaining or testing for these parameters;

(c) The methods for obtaining representative samples of wastes for analysis (representative sampling methods are discussed in WAC 173-303-110(2));

(d) The frequency with which analysis of a waste will be reviewed or repeated to ensure that the analysis is accurate and current;

(e) The waste analyses which generators have agreed to supply;

(f) Where applicable, the methods for meeting the additional waste analysis requirements for specific waste management methods as specified in WAC 173-303-400(3) which incorporates by reference the regulations in 40 CFR Part 265 Subparts F through R 265.1034, 265.1063(d), 265.1084, 268.4(a) and 268.7 for interim status facilities and in WAC 173-303-140 (4)(b), 173-303-395(1), 173-303-630 through 173-303-670, and 40 CFR 264.1034, 264.1063(d), 264.1083, 268.4(a) and 268.7 for final status facilities;

(g) For off-site facilities, the waste analysis that dangerous waste generators have agreed to supply;

(h) For surface impoundments exempted from land disposal restrictions under 40 CFR 268.4(a), incorporated by reference in WAC 173-303-140(2), the procedures and schedules for:

(i) The sampling of impoundment contents;

(ii) The analysis of test data; and

(iii) The annual removal of residues that are not delisted under 40 CFR 260.22 or which exhibit a characteristic of hazardous waste and either:

(A) Do not meet applicable treatment standards of 40 CFR Part 268, Subpart D; or

(B) Where no treatment standards have been established;

(I) Such residues are prohibited from land disposal under 40 CFR 268.32 or RCRA section 3004(d); or

(II) Such residues are prohibited from land disposal under 40 CFR 268.33(f).

(i) For owners and operators seeking an exemption to the air emission standards of subpart CC in accordance with Sec. 264.1082, incorporated by reference at WAC 173-303-692, or with 265.1083, incorporated by reference at WAC 173-303-400 (3)(a):

(A) If direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis, and the results of the analysis of test data to verify the exemption.

(B) If knowledge of the waste is used for the waste determination, any information prepared by the facility owner or operator or by the generator of the hazardous waste, if the waste is received from off-site, that is used as the basis for knowledge of the waste.

(6) For off-site facilities, the waste analysis plan required in subsection (5) of this section must also specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper. At a minimum, the plan must describe:

(a) The procedures which will be used to determine the identity of each movement of waste managed at the facility;

(b) The sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling; and

(c) The procedures that the owner or operator of an off-site landfill receiving containerized hazardous waste will use to determine whether a hazardous waste generator or treater has added a biodegradable sorbent to the waste in the container.

Comment: WAC 173-303-806 requires that the waste analysis plan be submitted with Part B of the permit application.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-320 General inspection. (1) The owner or operator must inspect his facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of dangerous waste constituents to the environment, or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(2) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that help prevent, detect, or respond to hazards to the public health or the environment. In addition:

(a) ~~((He must keep))~~ The schedule must be kept at the facility;

(b) The schedule must identify the types of problems which are to be looked for during inspections;

(c) The schedule must indicate the frequency of inspection for specific items. The frequency should be based on the rate of possible deterioration of equipment, and the probability of an environmental or human health incident. Areas subject to spills must be inspected daily when in use. At a minimum the inspection schedule must also include the applicable items and frequencies required for the specific waste management methods described in 40 CFR Part 265 Subparts F through R, 265.1033, 265.1052, 265.1053, 265.1058 and 265.1084 through 265.1090, for interim status facilities and in WAC 173-303-630 through 173-303-680, and 40 CFR 264.1033, 264.1052, 264.1053, 264.1058 and 264.1083 through 264.1089 for final status facilities; and

(d) The owner or operator must keep an inspection log or summary, including at least the date and time of the inspection, the printed name and the handwritten signature of the inspector, a notation of the observations made, an account of spills or discharges in accordance with WAC 173-303-145, and the date and nature of any repairs or remedial actions taken. The log or summary must be kept at the facility for at least five years from the date of inspection.

(3) The owner or operator must remedy any problems revealed by the inspection, on a schedule which prevents hazards to the public health and environment. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-370 Manifest system. (1) Applicability. The requirements of this section apply to owners and operators who receive dangerous waste from off-site sources.

(2) If a facility receives dangerous waste accompanied by a manifest, the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest to certify that the dangerous waste covered by the manifest was received;

(b) Note any significant discrepancies in the manifest, as described in subsection (4) of this section, on each copy of the manifest;

(c) Immediately give the transporter at least one copy of the signed manifest;

(d) Within thirty days after the delivery, send a copy of the manifest to the generator; and

(e) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives, from a rail or water (bulk shipment) transporter, dangerous waste which is accompanied by a manifest or shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest or shipping paper to certify that the dangerous waste covered by the manifest or shipping paper was received;

(b) Note any significant discrepancies in the manifest or shipping paper, as described in subsection (4) of this section, on each copy of the manifest or shipping paper;

(c) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper;

(d) Within thirty days after the delivery, send a copy of the signed and dated manifest or shipping paper to the generator. However, if the manifest is not received within thirty days after the delivery, the owner or operator, or his agent, must send a copy of the signed and dated shipping paper to the generator; and

(e) Retain at the facility a copy of each shipping paper and manifest for at least three years from the date of delivery.

(4) Whenever a shipment of dangerous waste is initiated from a facility, the owner or operator of that facility must comply with the generator requirements of WAC 173-303-170 through 173-303-230.

(5) Within three working days of the receipt of a shipment subject to 40 CFR part 262, subpart H (which is incorporated by reference at WAC 173-303-230(1)), the owner or operator of the facility must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

(6) Manifest discrepancies.

(a) Manifest discrepancies are significant discrepancies between the quantity or type of dangerous waste designated on the manifest or shipping paper and the quantity or type of dangerous waste a facility actually receives. Significant discrepancies in quantity are variations greater than ten percent in weight for bulk quantities (e.g., tanker trucks, railroad tank cars, etc.), or any variations in piece count for nonbulk quantities (i.e., any missing container or package would be a significant discrepancy). Significant discrepancies in type are obvious physical or chemical differences which can be discovered by inspection or waste analysis (e.g., waste solvent substituted for waste acid).

(b) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy

with the waste generator and transporter. If the discrepancy is not resolved within fifteen days after receiving the waste, the owner or operator must immediately submit to the department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

~~((5))~~ (7) Reasons for not accepting dangerous waste shipments. The owner or operator may decide that a dangerous shipment should not be accepted by his facility.

(a) The following are acceptable reasons for denying receipt of a dangerous waste shipment:

(i) The facility is not capable of properly managing the type(s) of dangerous waste in the shipment;

(ii) There is a significant discrepancy (as described in subsection (4) of this section) between the shipment and the wastes listed on the manifest or shipping paper; or

(iii) The shipment has arrived in a condition which the owner or operator believes would present an unreasonable hazard to facility operations, or to facility personnel handling the dangerous waste(s) (including, but not limited to, leaking or damaged containers, and improperly labeled containers).

(b) The owner or operator may send the shipment on to the alternate facility designated on the manifest or shipping paper, or contact the generator to identify another facility capable of handling the waste and provide for its delivery to that other facility, unless, the containers are damaged to such an extent, or the dangerous waste is in such a condition as to present a hazard to the public health or the environment in the process of further transportation.

(c) If the dangerous waste shipment cannot leave the facility for the reasons described in (b) of this subsection, then the owner or operator must take those actions described in the contingency plan, WAC 173-303-350 (3)(b).

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-380 Facility recordkeeping. (1) Operating record. The owner or operator of a facility must keep a written operating record at their facility. The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(a) A description of and the quantity of each dangerous waste received or managed on-site, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by subsection (2) of this section, recordkeeping instructions;

(b) The location of each dangerous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each dangerous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;

(c) Records and results of waste analyses, waste determinations (as required by Subpart CC), and trial tests required by WAC 173-303-300, General waste analysis, and by 40 CFR sections 264.1034, 264.1063, 264.1083, 265.1034, 265.1063, 265.1084, 268.4(a), and 268.7;

(d) Summary reports and details of all incidents that require implementing the contingency plan, as specified in WAC 173-303-360 (2)(k);

(e) Records and results of inspections as required by WAC 173-303-320 (2)(d), General inspection (except such information need be kept only for five years);

(f) Monitoring, testing, or analytical data, and corrective action where required by 40 CFR Part 265 Subparts F through R and sections 265.1034 (c) through (f), 265.1035, 265.1063 (d) through (i), 265.1064, and 265.1083 through 265.1090 for interim status facilities, and by WAC 173-303-630 through 173-303-695 and 40 CFR sections 264.1034 (c) through (f), 264.1035, 264.1063 (d) through (i), 264.1064, and 264.1082 through 264.1090 for final status facilities;

(g) All closure and post-closure cost estimates required for the facility;

(h) For off-site facilities, copies of notices to generators informing them that the facility has all appropriate permits, as required by WAC 173-303-290, Required notices;

(i) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to 40 CFR 268.5, a petition pursuant to 40 CFR 268.6, and the applicable notice required by a generator under 40 CFR 268.7(a);

(j) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under 40 CFR 268.7;

(k) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7;

(l) For an off-site land disposal facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under 40 CFR 268.7;

(m) For an on-site land disposal facility, the information contained in the notice required by the generator or owner or operator of a treatment facility under 40 CFR 268.7, except for the manifest number;

(n) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7;

(o) For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7; ~~(and)~~

(p) Any records required under WAC 173-303-280(6); ~~and~~

(q) A certification by the permittee no less often than annually, that the permittee has a program in place to reduce the volume and toxicity of hazardous waste that they generate to the degree determined by the permittee to be economically practicable; and the proposed method of treatment, storage or disposal is that practicable method currently available to the permittee which minimizes the present and future threat to human health and the environment.

PROPOSED

(2) Recordkeeping instructions. This paragraph provides instructions for recording the portions of the operating record which are related to describing the types, quantities, and management of dangerous wastes at the facility. This information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility, as follows:

(a) Each dangerous waste received, treated, stored, or disposed of at the facility must be described by its common name and by its dangerous waste number(s) from WAC 173-303-080 through 173-303-104. Each listed, characteristic, and criteria waste has its own four-digit dangerous waste number. Where a dangerous waste contains more than one process waste or waste constituent the waste description must include all applicable dangerous waste numbers. If the dangerous waste number is not listed, the waste description must include the process which generated the waste;

(b) The waste description must include the waste's physical form (i.e., liquid, solid, sludge, or contained gas);

(c) The estimated or manifest-reported weight, or volume and density, where applicable, of the dangerous waste must be recorded, using one of the units of measure specified in Table 1, below; and

TABLE 1

Unit of Measure	Code ¹
Gallons	G
Gallons per Hour	E
Gallons per Day	U
Liters	L
Liters per Hour	H
Liters per Day	V
Short tons (2000 lbs)	T
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S
Pounds	P
Pounds per Hour	J
Kilograms	K
Kilograms per Hour	R
Cubic yards	Y
Cubic meters	C
Acres	B
Acres-foot	A
Hectares	Q
Hectare-meter	F
Btu's per Hour	I

Footnote: ¹Single-digit symbols are used here for data processing purposes.

(d) The method(s) (by handling code(s)) of management for each dangerous waste received or managed, and the date(s) of treatment, recycling, storage, or disposal must be

recorded, using the handling code(s) specified in Table 2, below.

TABLE 2 - Handling Codes for Treatment, Storage, and Disposal Methods

Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of dangerous waste received.

1. Storage
 - S01 Container (barrel, drum, etc.)
 - S02 Tank
 - S03 Waste pile
 - S04 Surface impoundment
 - S05 Drip Pad
 - S06 Containment Building (Storage)
 - S99 Other storage (specify)
2. Treatment
 - (a) Thermal Treatment
 - T06 Liquid injection incinerator
 - T07 Rotary kiln incinerator
 - T08 Fluidized bed incinerator
 - T09 Multiple hearth incinerator
 - T10 Infrared furnace incinerator
 - T11 Molten salt destructor
 - T12 Pyrolysis
 - T13 Wet air oxidation
 - T14 Calcination
 - T15 Microwave discharge
 - T18 Other (specify)
 - (b) Chemical treatment
 - T19 Absorption mound
 - T20 Absorption field
 - T21 Chemical fixation
 - T22 Chemical oxidation
 - T23 Chemical precipitation
 - T24 Chemical reduction
 - T25 Chlorination
 - T26 Chlorinolysis
 - T27 Cyanide destruction
 - T28 Degradation
 - T29 Detoxification
 - T30 Ion exchange
 - T31 Neutralization
 - T32 Ozonation
 - T33 Photolysis
 - T34 Other (specify)
 - (c) Physical treatment
 - (i) Separation of components
 - T35 Centrifugation
 - T36 Clarification
 - T37 Coagulation
 - T38 Decanting
 - T39 Encapsulation
 - T40 Filtration
 - T41 Flocculation
 - T42 Flotation
 - T43 Foaming
 - T44 Sedimentation
 - T45 Thickening
 - T46 Ultrafiltration

- T47 Other (specify)
 - (ii) Removal of specific components
- T48 Absorption-molecular sieve
- T49 Activated carbon
- T50 Blending
- T51 Catalysis
- T52 Crystallization
- T53 Dialysis
- T54 Distillation
- T55 Electrodialysis
- T56 Electrolysis
- T57 Evaporation
- T58 High gradient magnetic separation
- T59 Leaching
- T60 Liquid ion exchange
- T61 Liquid-liquid extraction
- T62 Reverse osmosis
- T63 Solvent recovery
- T64 Stripping
- T65 Sand filter
- T66 Other (specify)
 - (d) Biological treatment
- T67 Activated sludge
- T68 Aerobic lagoon
- T69 Aerobic tank
- T70 Anaerobic tank
- T71 Composting
- T72 Septic tank
- T73 Spray irrigation
- T74 Thickening filter
- T75 Trickling filter
- T76 Waste stabilization pond
- T77 Other (specify)
- T78-79 (Reserved)
 - (e) Boilers and industrial furnaces
- T80 Boiler
- T81 Cement kiln
- T82 Lime kiln
- T83 Aggregate kiln
- T84 Phosphate kiln
- T85 Coke oven
- T86 Blast furnace
- T87 Smelting, melting, or refining furnace
- T88 Titanium dioxide chloride process oxidation reactor
- T89 Methane reforming furnace
- T90 Pulping liquor recovery furnace
- T91 Combustion device used in the recovery of sulfur values from spent sulfuric acid
- T92 Halogen acid furnaces
- T93 Other industrial furnaces listed in WAC 173-303-040 (specify)
- (f) Other treatment
- T94 Containment building (treatment)

3. Disposal

- D79 Underground injection
- D80 Landfill
- D81 Land treatment
- D82 Ocean disposal
- D83 Surface impoundment

(to be closed as a landfill)

D99 Other disposal (specify)

4. Miscellaneous (Subpart X)

- X01 Open burning/open detonation
- X02 Mechanical processing
- X03 Thermal unit
- X04 Geologic repository
- X99 Other Subpart X (specify)

(3) Availability, retention and disposition of records.

(a) All facility records, including plans, required by this chapter must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the department who is designated by the director.

(b) The retention period for all facility records required under this chapter is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the director.

(c) A copy of records of waste disposal locations and quantities under this section must be submitted to the United States EPA regional administrator, the department, and the local land use and planning authority upon closure of the facility.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-390 Facility reporting. The owner or operator of a facility is responsible for preparing and submitting the reports described in this section.

(1) Unmanifested waste reports. If a facility accepts any dangerous waste from an off-site source without an accompanying manifest or shipping paper, and if the waste is not excluded from the manifest requirements of this chapter 173-303 WAC, then the owner or operator must prepare and submit a single copy of a report to the department within fifteen days after receiving the waste. The report form and instructions in the Unmanifested Dangerous Waste Report must be used for this report. The report must include at least the following information:

(a) The EPA/state identification number, name, and address of the facility;

(b) The date the facility received the waste;

(c) The EPA/state identification number, name, and address of the generator and the transporter, if available;

(d) A description and the quantity of each unmanifested dangerous waste the facility received;

(e) The method of management for each dangerous waste;

(f) The certification signed by the owner or operator of the facility or his authorized representative; and

(g) A brief explanation of why the waste was unmanifested, if known.

(2) Annual reports. The owner or operator of a facility that holds an active EPA/state identification number must prepare and submit a single copy of an annual report to the department by March 1 of each year. The report form and instructions in the Dangerous Waste Annual Report (which may be obtained from the department) must be used for this

report. In addition, any facility which ships dangerous waste off-site must comply with the annual reporting requirements of WAC 173-303-220. The annual report must cover facility activities during the previous calendar year and must include, but is not limited to the following information:

(a) The EPA/state identification number, name, and address of the facility;

(b) The calendar year covered by the report;

(c) For off-site facilities, the EPA/state identification number of each dangerous waste generator from which the facility received a dangerous waste during the year. For imported shipments, the report must give the name and address of the foreign generator;

(d) A description and the quantity of each dangerous waste the facility received during the year. For off-site facilities, this information must be listed by EPA/state identification number of each generator;

(e) The method of treatment, storage, or disposal for each dangerous waste;

(f) The most recent closure cost estimate under WAC 173-303-620(3) (or 40 CFR 265.142 for interim status facilities), and for disposal facilities, the most recent post-closure cost estimate under WAC 173-303-620(5) (or 40 CFR 265.144 for interim status facilities); ~~(and)~~

(g) For generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

(h) For generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984; and

(i) The certification signed in accordance with the requirements of WAC 173-303-810(12).

(3) Additional reports. The owner or operator must report to the department:

(a) Releases of dangerous wastes, fires, and explosions as specified in WAC 173-303-360 (2)(k);

(b) Interim status ground water monitoring data, as specified in 40 CFR 265.94 (a)(2) and (b)(2);

(c) Facility closures specified in WAC 173-303-610(6); and

(d) As otherwise required by WAC 173-303-645 through 173-303-665, WAC 173-303-690 through 173-303-692, and WAC 173-303-400.

The owner or operator must also submit any other reports (including engineering reports, plans, and specifications) required by the department.

(4) Recordkeeping. The owner/operator of a facility must keep a copy of all unmanifested waste reports, annual reports, and any other reports submitted to the department according to the requirements of this section for a period of three years from the date the report was submitted. Note that some records must be kept until closure of the facility as otherwise required under WAC 173-303-380.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-395 Other general requirements. (1) Precautions for ignitable, reactive, or incompatible wastes.

(a) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flame to specially designated locations. "No smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(b) Where specifically required by other sections of this chapter 173-303 WAC, the treatment, storage, or disposal of ignitable or reactive waste, and the mixture or commingling of incompatible wastes, or incompatible wastes and materials, must be conducted so that it does not:

(i) Generate extreme heat or pressure, fire or explosion, or violent reaction;

(ii) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment;

(iii) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(iv) Damage the structural integrity of the facility or device containing the waste; or

(v) Through other like means, threaten human health or the environment.

(c) When required to comply with (a) and (b) of this subsection, the owner or operator must document that compliance in the operating record required under WAC 173-303-380(1). This documentation may be based on references to published scientific or engineering literature, data from trial tests, waste analyses, or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

(d) At least yearly, the owner or operator must inspect those areas of his facility where ignitable or reactive wastes are stored. This inspection must be performed in the presence of a professional person who is familiar with the ~~((Uniform))~~ International Fire Code, or in the presence of the local, state, or federal fire marshal. The owner or operator must enter the following information in his inspection log or operating record as a result of this inspection:

(i) The date and time of the inspection;

(ii) The name of the professional inspector or fire marshal;

(iii) A notation of the observations made; and

(iv) Any remedial actions which were taken as a result of the inspection.

(2) Compliance with other environmental protection laws and regulations. In receiving, storing, handling, treating, processing, or disposing of dangerous wastes, the owner/operator must design, maintain and operate his dangerous waste facility in compliance with all applicable federal, state and local laws and regulations (e.g., control of

stormwater or sanitary water discharge, control of volatile air emissions, etc.).

(3) Reserve.

(4) Loading and unloading areas. TSD facilities which receive or ship manifested shipments of liquid dangerous waste for treatment, storage or disposal must provide for and use an area (or areas) for loading and unloading waste shipments. The loading and unloading area(s) must be designed, constructed, operated and maintained to:

(a) Contain spills and leaks that might occur during loading or unloading;

(b) Prevent release of dangerous waste or dangerous waste constituents to ground or surface waters;

(c) Contain wash waters (if any) resulting from the cleaning of contaminated transport vehicles and load/unload equipment; and

(d) Allow for removal, as soon as possible, of collected wastes resulting from spills, leaks and equipment cleaning (if any) in a manner which assures compliance with (b) of this subsection.

(5) Storage time limit for impoundments and piles.

(a) Except as provided in (b) or (c) of this subsection, dangerous waste may not be stored in a surface impoundment or waste pile for more than five years after the waste was first placed in the impoundment or pile. For the purposes of this requirement, the five-year limit, for waste regulated under this chapter and being stored in impoundments or piles on the effective date of this requirement, will begin on August 1, 1984. The age of stored wastes must be determined on a monthly basis.

The owner/operator of a surface impoundment or waste pile used for storing dangerous waste must develop a written plan, to be kept at the facility, for complying with the five-year storage limit. The plan must describe the operating conditions, waste identification procedures (for keeping track of the age of the wastes), and a waste removal schedule, and at a minimum the plan must include the following elements:

(i) Methods for identifying the age of dangerous wastes placed in the impoundment or pile;

(ii) Where practical, procedures for segregating wastes of different ages. If the wastes cannot be practically segregated, then the age of all wastes placed in the impoundment or pile must be deemed the same age as the oldest waste in the impoundment or pile;

(iii) A schedule for removing dangerous waste from the impoundment or pile, or for disposing of them in a timely manner to assure compliance with the five-year limit;

(iv) A description of the actions to be taken according to the schedule required by (a)(iii) of this subsection;

(v) Procedures for noting in the operating record required by WAC 173-303-380(1) that the requirements of this subsection have been satisfied; and

(vi) Such other requirements as the department specifies.

(b) If the owner/operator of a surface impoundment or waste pile can develop a written plan and schedule for developing and implementing a recycling or treatment process for the wastes stored in his impoundment or pile, then the department may grant an extension to the storage time limit required in (a) of this subsection. Such extension will be granted only once, will only apply to those dangerous wastes

covered by the recycling or treatment plan and which are less than five years old on the date that the plan is approved by the department, and will not exceed five years: Provided, That on a case-by-case basis the department may grant an extension of longer than five years, but in no case will any extension be granted for longer than ten years, if the owner/operator of the impoundment or pile can demonstrate to the department's satisfaction that an extension of more than five years will not pose a threat to public health or the environment, and is necessary because: Other treatment or recycling options of shorter durations are not available; the treatment or recycling plan developed by the owner/operator cannot be implemented within five years due to technological circumstances; or, such other reasons as are determined acceptable by the department. Until the department grants the extension by approving the recycling or treatment plan, the owner/operator must continue to comply with the requirements of (a) of this subsection. The recycling or treatment plan and schedule, at a minimum, must:

(i) Specify the wastes which will be recycled or treated in accordance with the plan;

(ii) Describe in detail the recycling or treatment which the owner/operator intends to perform. If the recycling or treatment will involve physical changes to the owner's/operator's facility, the plan must include descriptions of all necessary equipment, processes to be used, site plans, and maps to show any new structures, pipes, channels, waste handling areas, roads, etc.;

(iii) Discuss any permit actions (including issuance or modification) necessary under this chapter, and any other permits which will be required under other federal, state or local laws;

(iv) Establish a schedule for complying with the plan. The schedule must, at a minimum, cover:

(A) The rate at which wastes will be recycled or treated in order to comply with the extension granted by the department;

(B) Construction and equipment installation times as appropriate;

(C) Timing for complying with all required permit actions; and

(D) Such other elements as the department might require;

(v) Describe how the owner/operator will continue to comply with the requirements of (a) of this subsection for all wastes not specified in (b)(i) of this subsection;

(vi) Identify any future occurrences or situations which the owner/operator could reasonably expect to occur and which might cause him to fail to comply with his recycling or treatment plan. The owner/operator must also describe what actions he would take in the event that such occurrences or situations happen;

(vii) Be approved by the department. The plan may not be implemented until it is approved by the department including, if necessary, issuance or modification of a facility permit as required by this chapter. Any extension granted by the department will begin on the date that the plan is approved, or the date five years after the effective date of this subsection, whichever is later; and

(viii) Include any other elements that the department might require.

(c) The owner/operator of a surface impoundment or waste pile is exempted from the requirements of (a) and (b) of this subsection if:

(i) The owner/operator of a surface impoundment or waste pile can demonstrate to the department's satisfaction that the impoundment or pile is not used primarily for storage, but that it is primarily used to actively and effectively neutralize, detoxify, or otherwise treat dangerous waste; or

(ii) The owner/operator of a surface impoundment or waste pile can demonstrate to the department's satisfaction that dangerous waste is removed on a frequent basis (at least four times a year) for treatment, recycling or disposal, provided that the amount of waste removed during any five-year period must equal or exceed the amount of waste placed in the impoundment or pile during that five-year period. However, this exemption does not apply to waste removal which is being performed pursuant to a recycling or treatment plan developed and approved under (b) of this subsection; or

(iii) The owner/operator of a surface impoundment or waste pile has demonstrated, through his permit, closure plan or other instrument, that the impoundment or pile is being operated as a land disposal unit and that it will be closed as a landfill.

(6) Labeling for containers and tanks. The owner or operator must label containers and tanks in a manner which adequately identifies the major risk(s) associated with the contents for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate). The owner or operator must ensure that labels are not obscured, removed, or otherwise unreadable in the course of inspection required under WAC 173-303-320. For tanks, the label or sign must be legible at a distance of at least fifty feet. For containers, the owner or operator must affix labels upon transfer of dangerous waste from one container to another. The owner or operator must destroy or otherwise remove labels from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-400 Interim status facility standards.

(1) Purpose. The purpose of WAC 173-303-400 is to establish standards which define the acceptable management of dangerous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(2) Applicability.

(a) Except as provided in 40 CFR 265.1080(b), the interim status standards apply to owners and operators of facilities that treat, store, transfer, and/or dispose of dangerous waste. For purposes of this section, interim status applies to all facilities that comply fully with the requirements for interim status under Section 3005(e) of the Federal Resource Conservation and Recovery Act or WAC 173-303-805. The

interim status standards also apply to those owners and operators of facilities in existence on November 19, 1980, for RCRA wastes and those facilities in existence on August 9, 1982, for state only wastes who have failed to provide the required notification pursuant to WAC 173-303-060 or failed to file Part A of the permit application pursuant to WAC 173-303-805 (4) and (5). Interim status will end after final administrative disposition of the Part B permit application is completed, or may be terminated for the causes described in WAC 173-303-805(8).

(b) Interim status facilities must meet the interim status standards by November 19, 1980, except that:

(i) Interim status facilities which handle only state designated wastes (i.e., not designated by 40 CFR Part 261) must meet the interim status standards by August 9, 1982; and

(ii) Interim status facilities must comply with the additional state interim status requirements specified in subsection (3)(c)(ii), (iii) and (v), of this section, by August 9, 1982.

(c) The requirements of the interim status standards do not apply to:

(i) Persons disposing of dangerous waste subject to a permit issued under the Marine Protection, Research and Sanctuaries Act;

(ii) Reserved;

(iii) The owner or operator of a POTW who treats, stores, or disposes of dangerous wastes, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(4);

(iv) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment units as defined in WAC 173-303-040, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(5);

(v) Generators accumulating waste for less than ninety days except to the extent WAC 173-303-200 provides otherwise;

(vi) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(vii) The compaction or sorting, by a generator, of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(viii) Generators treating dangerous waste on-site in tanks, containers, or containment buildings that are used for accumulation of such wastes provided the generator complies with the WAC 173-303-170(3);

(ix) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in WAC 173-303-040, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001

High TOC Subcategory defined in 40 CFR section 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in WAC 173-303-395 (1)(a); and

(x) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance.

(xi) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the wastes listed below. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.

(A) Batteries as described in WAC 173-303-573(2); ~~((and))~~

(B) Thermostats as described in WAC 173-303-573(3)((-));

(C) Mercury-containing equipment as described in WAC 173-303-573(4); and

(D) Lamps as described in WAC 173-303-573(5).

(xii) WAC 173-303-578 identifies when the requirements of this section apply to the storage of military munitions classified as solid waste under WAC 173-303-578(2). The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards in this chapter.

(xiii)(A) Except as provided in (c)(xiii)(B) of this subsection, a person engaged in treatment or containment activities during immediate response to any of the following situations:

(I) A discharge of a dangerous waste;

(II) An imminent and substantial threat of a discharge of dangerous waste;

(III) A discharge of a material that, when discharged, becomes a dangerous waste;

(IV) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in WAC 173-303-040.

(B) An owner or operator of a facility otherwise regulated by WAC 173-303-600 must comply with all applicable requirements of WAC 173-303-340 and 173-303-350.

(C) Any person who is covered by (c)(xiii)(A) of this section and who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(D) In the case of an explosives or munitions emergency response, if a federal, state, tribal or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA/state identification numbers and without the preparation of a manifest.

In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(3) Standards.

(a) Interim status standards are the standards set forth by the Environmental Protection Agency in 40 CFR Part 265 Section 265.19 of Subpart B, Subparts F through R, Subpart W, Subparts AA, BB, CC (including references to 40 CFR Parts 60, 61, and 63), DD, EE, and Appendix VI, which are incorporated by reference into this regulation (including, by reference, any EPA requirements specified in those subparts which are not otherwise explicitly described in this chapter), and:

(i) The land disposal restrictions of WAC 173-303-140; the facility requirements of WAC 173-303-280 through 173-303-440 except WAC 173-303-335; and the corrective action requirements of WAC 173-303-646;

(ii) WAC 173-303-630(3), for containers. In addition, for container storage, the department may require that the storage area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being stored, or due to a history of spills or releases from stored containers. Any new container storage areas constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7).

(iii) WAC 173-303-640 (5)(d), for tanks; and

(iv) WAC 173-303-805.

(b) For purposes of applying the interim status standards of 40 CFR Part 265 Subparts F through R, Subpart W, and Subparts AA, BB, CC, DD, and EE to the state of Washington facilities, the federal terms have (and in the case of the wording used in the financial instruments referenced in Subpart H of Part 265, must be replaced with) the following state of Washington meanings:

(i) "Regional administrator" means the "department" except for 40 CFR Parts 270.2; 270.3; 270.5; 270.10 (e)(1),(2) and (4); 270.10 (f) and (g); 270.11 (a)(3); 270.14 (b)(20); 270.32 (b)(2); and 270.51;

(ii) "Hazardous" means "dangerous" except for Subparts AA, BB, CC, and DD. These subparts apply only to hazardous waste as defined in WAC 173-303-040;

(iii) "Compliance procedure" has the meaning set forth in WAC 173-303-040, Definitions;

(iv) "EPA hazardous waste numbers" mean "dangerous waste numbers".

(c) In addition to the changes described in (b) of this subsection, the following modifications are made to interim status standards of 40 CFR Part 265 Subparts F through R, Subpart W, and Subparts AA, BB, CC, DD, and EE:

(i) The words "the effective date of these regulations" means:

(A) November 19, 1980, for facilities which manage any wastes designated by 40 CFR Part 261;

(B) For wastes which become designated by 40 CFR Part 261 subsequent to November 19, 1980, the effective date is the date on which the wastes become regulated;

(C) March 12, 1982, for facilities which manage wastes designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 CFR Part 261;

(D) For wastes which become designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 CFR Part 261 subsequent to March 12, 1982, the effective date is the date on which the wastes become regulated.

(ii) "Subpart N - landfills" has an additional section added which reads: "An owner/operator must not landfill an organic carcinogen or an EHW, as defined by WAC 173-303-080 through 173-303-100, except at the EHW facility at Hanford";

(iii) "Subpart R - underground injection" has an additional section which reads: "Owners and operators of wells are prohibited from disposing of EHW or an organic carcinogen designated under WAC 173-303-080 through 173-303-100";

(iv) "Subpart M - land treatment," section 265.273(b) is modified to replace the words "Part 261, Subpart D of this chapter" with "WAC 173-303-080";

(v) "Subpart F - ground water monitoring," section 265.91(c) includes the requirement that: "Ground water monitoring wells must be designed, constructed, and operated so as to prevent ground water contamination. Chapter 173-160 WAC may be used as guidance in the installation of wells";

(vi) "Subpart H - financial requirements" has an additional section which reads: "Any owner or operator who can provide financial assurances and instruments which satisfy the requirements of WAC 173-303-620 will be deemed to be in compliance with 40 CFR Part 265 Subpart H" In 40 CFR Parts 265.143(g) and 265.145(g) the following sentence does not apply to the state: "If the facilities covered by the mechanisms are in more than one Region, identical evidence of financial assurance must be submitted to, and maintained with the Regional Administrators of all such Regions." Instead, the following sentence applies: "If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state." In addition, the following sections and any cross-reference to these sections are not incorporated by reference: 40 CFR Parts 265.149 and 265.150; and

(vii) "Subpart J - tank systems" section 265.193(a) is modified so that the dates by which secondary containment (which meets the requirements of that section) must be provided are the same as the dates in WAC 173-303-640 (4)(a).

(viii) "Subpart J - tank systems" section 265.191(a) is modified so that the date by which an assessment of a tank system's integrity must be completed is January 12, 1990.

(ix) "Subpart G - closure and post-closure" section 265.112 (4)(d) is modified to read "The owner or operator must submit the closure plan to the department at least 45 days prior to the date on which they expect to begin closure of a tank, container storage, or incinerator unit, or final clo-

sure of a facility with such a unit." In addition, section 265.112 (4)(d) is modified to read "Owners or operators with approved closure plans must notify the department in writing at least 45 days prior to the date on which they expect to begin closure of a tank, container storage, or incinerator unit, or final closure of a facility with such a unit." Section 265.115 is modified to read "Within 60 days of completion of closure of each dangerous waste management unit (including tank systems and container storage areas) and within 60 days of completion of final closure(---), the owner or operator must submit to the department, by registered mail, a certification that the dangerous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan." In addition, the clean-up levels for removal or decontamination set forth at WAC 173-303-610 (2)(b) apply.

(x) "Subpart B - general facility standards. References to "EPA" (etc.), means the "department" except at 40 CFR 265.11. Additionally, references to "administrator" (etc.), means the "director" except at 40 CFR 265.12(a)."

(xi) The following sections and any cross-reference to these sections are not incorporated or adopted by reference:

(A) 40 CFR Parts 260.1 (b)(4)-(6) and 260.20-22.

(B) 40 CFR Parts 264.1 (d) and (f); 265.1 (c)(4); 264.149-150 and 265.149-150; 264.301(k); and 265.430.

(C) 40 CFR Parts 268.5 and 6; 268 Subpart B; 268.42(b); and 268.44 (a) through (g).

(D) 40 CFR Parts 270.1 (c)(1)(i); 270.60(b); and 270.64.

(E) 40 CFR Parts 124.1 (b)-(e); 124.4; 124.5(e); 124.9; 124.10 (a)(1)(iv); 124.12(e); 124.14(d); 124.15 (b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.

(F) 40 CFR Parts 2.106(b); 2.202(b); 2.205(i); 2.209 (b)(c); 2.212-213; and 2.301-311.

(G) 40 CFR 265.110(c), 40 CFR 265.118 (c)(4), 40 CFR 265.121 and 40 CFR 265.1080 (e) and (f).

(xii) "Subpart EE - Hazardous waste munitions and explosives storage." The first sentence at 40 CFR 265.1202 is modified to exclude the exception for hazardous wastes managed under 261.3(d).

(4) The requirements of this section apply to owners or operators of all facilities that treat, store or dispose of hazardous waste referred to in 40 CFR Part 268, and the 40 CFR Part 268 standards are considered material conditions or requirements of the interim status standards incorporated by reference in subsection (3) of this section.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-505 Special requirements for recyclable materials used in a manner constituting disposal. (1) Applicability. (Also, see WAC 173-303-120(3).)

(a) This section applies to recyclable materials that are applied to or placed on the land:

(i) Without mixing with any other substance(s); or

(ii) After mixing or combining with any other substance(s). These materials will be referred to as "materials used in a manner that constitutes disposal."

(b)(i) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain

recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means and if such products meet the applicable treatment standards in 40 CFR Part 268 Subpart D (or applicable prohibition levels in 268.32 or RCRA section 3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain. (~~Registered commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not subject to regulation provided they meet these same treatment standards or prohibition levels for each recyclable material that they contain. For the purpose of implementation of this section, fertilizers that contain recyclable material derived from state-only waste must also meet the treatment standards in 40 CFR Part 268 Subpart D that apply to the characteristics of dangerous waste that the state-only waste exhibits. The prohibition levels for fertilizer using K061, in mg/l, are as follows: Arsenic, 5.0; Barium, 100.0; Cadmium, 1.0; Chromium (Total), 5.0; Lead, 5.0; Mercury, 0.20; Selenium, 5.7; and Silver, 5.0. The department may recommend registration under chapter 15.54 RCW for a waste-derived fertilizer (including fertilizers that contain recyclable material) or micronutrient fertilizer: Provided, That the registrant submits the information described in (b)(i)(A) or (B) of this subsection:~~

(A) Initial Criteria.

(i) The applicable Land Disposal Restriction (LDR) Certification as described in 40 CFR Part 268, or toxicity characteristic leaching procedure (TCLP) data that indicate the product contains less than the maximum concentrations for TCLP metals described in WAC 173-303-090(8); and

(ii) Total Halogenated Organic Compounds (HOC) test data that indicate the product contains less than 1% total HOC.

(B) Secondary Criteria.

(i) A complete description of the fertilizer manufacturing process, including the location of the manufacturing facility; and

(ii) A complete list of all ingredients used in manufacturing the fertilizer and a complete description of the sources of those ingredients, including a description of the original process and location for each of those ingredients; and

(iii) Evidence that any waste(s) used in manufacturing the product does not designate as dangerous waste according to procedures described in WAC 173-303-070; and

(iv) Other information as required by the department.)

(ii) Antiskid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of dangerous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in (b)(i) of this subsection and remain subject to regulation.

(iii) Fertilizers that contain recyclable materials are not subject to regulation provided that:

(A) They are zinc fertilizers excluded according to WAC 173-303-071 (3)(pp); or

(B) They meet the applicable treatment standards in subpart D of Part 268, which is incorporated by reference at WAC 173-303-140 (2)(a) for each hazardous waste that they contain.

(Note: Fertilizers that contain recyclable material derived from state-only waste must also meet the treatment standards in WAC 173-303-140 (2)(a) that apply to the characteristics of dangerous waste that the state-only waste exhibits.)

(iv) The prohibition levels for fertilizer using K061, in mg/l, are as follows: Arsenic, 5.0; Barium, 100.0; Cadmium, 1.0; Chromium (Total), 5.0; Lead, 5.0; Mercury, 0.20; Selenium, 5.7; and Silver, 5.0.

(v) The department may recommend registration under chapter 15.54 RCW for a waste-derived fertilizer (including fertilizers that contain recyclable material) or micronutrient fertilizer: Provided, That the registrant submits the information described in (b)(v)(A) or (B) of this subsection. However, the information requirements in (b)(v)(A) of this subsection may not be required if: The registrant provides documentation that the fertilizer has been previously registered in Washington state two or more times using the information in (b)(v)(A) of this subsection, and the source materials used to manufacture the product have not changed.

(A) Initial criteria.

(i) The applicable Land Disposal Restriction (LDR) Certification as described in 40 CFR Part 268, or toxicity characteristic leaching procedure (TCLP) data that indicate the product contains less than the maximum concentrations for TCLP metals described in WAC 173-303-090(8); and

(ii) Total Halogenated Organic Compounds (HOC) test data that indicate the product contains less than 1% total HOC.

(B) Secondary criteria.

(i) A complete description of the fertilizer manufacturing process, including the location of the manufacturing facility; and

(ii) A complete list of all ingredients used in manufacturing the fertilizer and a complete description of the sources of those ingredients, including a description of the original process and location for each of those ingredients; and

(iii) Evidence that any waste(s) used in manufacturing the product does not designate as dangerous waste according to procedures described in WAC 173-303-070; and

(iv) Other information as required by the department.

(2) Recyclable materials used in a manner that constitutes disposal are dangerous wastes and are subject to the following requirements:

(a) For generators, WAC 173-303-170 through 173-303-230;

(b) For transporters, WAC 173-303-240 through 173-303-270; and

(c) For facilities that store or use dangerous wastes in a manner constituting disposal, the applicable requirements of 40 CFR Part 268 (incorporated by reference in WAC 173-303-140 (2)(a)) and 173-303-280 through 173-303-840 (except that users of such products are not subject to these standards if the products meet the requirements of subsection (1)(b) of this section).

(d) The use of waste oil, used oil, or other material that is contaminated with dioxin or any other dangerous waste for dust suppression or road treatment is prohibited.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-510 Special requirements for dangerous wastes burned for energy recovery. (1) Applicability. (Also, see WAC 173-303-120(3).)

(a) This section applies to generators, marketers, transporters, blenders, and burners of dangerous waste fuels that are to be burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, except as provided by (b) of this subsection. These regulations do not apply to gas recovered from dangerous waste management activities when such gas is burned for energy recovery. Note: (This note is a reminder that all generators, transporters, and burners of federally regulated hazardous waste fuels that are to be burned for energy recovery, and all storage facility owners and operators of facilities that store dangerous waste that is burned in a boiler or industrial furnace must comply with the requirements of 40 CFR Part 266 Subpart H.) In addition, the following are incorporated by reference for boilers and industrial furnaces that burn hazardous waste: 40 CFR 266.100 (b)(1), 266.100 (d)(1), 266.100 (d)(3) intro, and 266.100(h).

(b) The following dangerous wastes are not subject to regulation under this section:

(i) Used oil burned for energy recovery if it is a dangerous waste because it:

(A) Exhibits a characteristic of dangerous waste identified in WAC 173-303-090; or

(B) Is designated as DW only (and not EHW) through the criteria of WAC 173-303-100.

Such used oil is subject to regulation under WAC 173-303-515 rather than this section.

Note: Used oil burned for energy recovery containing a listed waste or a waste designated as EHW through the criteria of WAC 173-303-100 (a) and (b) is subject to this section.

(ii) (Reserved.)

(2) Definitions. Any terms used in this section that are not defined below have the meanings provided in WAC 173-303-040. For the purposes of this section, the following terms have the described meanings:

(a) "Dangerous waste fuel" means dangerous waste burned or to be burned for energy recovery. Fuel produced from dangerous waste by processing, blending, or other treatment is also dangerous waste fuel.

(b) "Distributor" means persons who distribute but do not process or blend dangerous waste fuel. Distributors may broker fuel by arranging for the final disposition of the fuel. Distributors are regulated under subsection (6) of this section.

(c) "Blender" means persons who produce, process, or blend fuel from dangerous wastes. Blenders are regulated under subsection (7) of this section.

(d) "Marketer" means persons who are:

(i) Generators who market dangerous waste fuel directly to a burner. Generators are regulated under subsection (4) of this section;

(ii) Distributors, regulated under subsection (6) of this section;

(iii) Blenders, regulated under subsection (7) of this section.

(3) Prohibitions.

(a) A person may market dangerous waste fuel only:

(i) To persons, in state, who have notified the department of their dangerous waste fuel activities under WAC 173-303-060 and have an EPA/state identification number or to out-of-state marketers or burners who have notified the EPA or authorized state agency and who have an EPA/state identification number; and

(ii) When marketed to a burner, to persons who burn the fuel in boilers or industrial furnaces identified in (b) of this subsection.

(b) Dangerous waste fuel may be burned for energy recovery in the following devices only;

(i) Industrial furnaces identified in WAC 173-303-040;

(ii) Boilers, as defined in WAC 173-303-040, that are identified as follows:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(B) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

(c) No fuel which contains any dangerous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than five hundred thousand (based on the most recent census statistics) unless such kiln fully complies with regulations under this chapter that are applicable to incinerators.

(4) Standards applicable to generators of dangerous waste fuel.

(a) All generators of dangerous waste that is used as a fuel or used to produce a fuel are subject to WAC 173-303-170 through 173-303-230.

(b) Generators who are marketers. Generators are marketers if they send their waste fuel directly to a burner. Generators who are marketers must:

(i) Prohibitions. Comply with the prohibitions under subsection (3) of this subsection.

(ii) Notification. Comply with the notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Generators who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

(iii) Accumulation. Comply with accumulation requirements of WAC 173-303-200 or 173-303-201.

(iv) Storage. For generators who have interim or final status and exceed the accumulation time frames referenced in (b)(iii) of this subsection, comply with the storage provisions of:

(A) WAC 173-303-280 through 173-303-395; and

(B) WAC 173-303-800 through 173-303-840; and

(C) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities.

(v) Required notice. Obtain, prior to initiating the first shipment of dangerous waste fuel, a one time written and signed certification notice from the burner certifying that:

(A) The burner has notified as described under subsection (3) of this subsection; and

(B) The burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this subsection.

(vi) Recordkeeping. Keep a copy of each certification notice received for at least five years from the date of the last dangerous waste fuel shipment to the burner who sent such notice.

(c) Generators who are burners also are subject to subsection (8) of this section.

(5) Standards applicable to transporters of dangerous waste fuel. Transporters of dangerous waste fuel (and dangerous waste that is used to produce a fuel) are subject to the requirements of WAC 173-303-240 through 173-303-270.

(6) Standards applicable to distributors of dangerous waste fuel.

(a) Prohibitions. The prohibitions under subsection (3) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Distributors who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

(c) Storage. Distributors who store dangerous waste fuels must comply with the applicable storage provisions of:

(i) WAC 173-303-280 through 173-303-395; and

(ii) WAC 173-303-800 through 173-303-840; and

(iii) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities;

(iv) The standards for generators in WAC 173-303-170 through 173-303-230.

(d) Off-site shipment. A distributor must meet the standards for generators in WAC 173-303-170 through 173-303-230 when the distributor initiates a shipment of dangerous waste fuel. Except that a distributor may not accumulate dangerous waste fuels under the accumulation provisions of WAC 173-303-200 or 173-303-201;

(e) Required notices.

(i) Before initiating the first shipment of dangerous waste fuel to another distributor, a blender, or a burner, a distributor must obtain a one-time written and signed certification notice from the distributor, blender, or burner certifying that:

(A) The burner, distributor, or blender has notified as described under subsection (3) of this section; and

(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(ii) Before accepting the first shipment of dangerous waste fuel from another distributor or blender, the distributor must provide the other distributor or blender with a one-time written and signed certification that the distributor has complied with the notification requirements described in subsection (3) of this section; and

(f) Recordkeeping. A distributor must keep a copy of each certification notice received or sent for at least five years from the date the distributor last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.

(7) Standards applicable to blenders of dangerous waste fuels.

(a) Prohibitions. The prohibitions under subsection (3) of this section.

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Blenders who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

(c) Facility. For tanks, containers, or other units used to hold dangerous waste prior to blending or processing; for blending or processing tanks, containers, or other units; and for tanks, containers, or other units, used to hold blended or processed fuel, blenders must comply with the applicable provisions of:

(i) WAC 173-303-280 through 173-303-395; and

(ii) WAC 173-303-800 through 173-303-840; and

(iii) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities;

(d) Off-site shipment. The standards for generators in WAC 173-303-170 through 173-303-230 when a blender initiates a shipment of dangerous waste fuel, except that a blender may not accumulate dangerous waste fuels under the accumulation provisions of WAC 173-303-200 or 173-303-201;

(e) Required notices.

(i) Before initiating the first shipment of dangerous waste fuel to another blender, a distributor, or a burner, a blender must obtain a one-time written and signed certification notice from the blender, distributor, or burner certifying that:

(A) The burner, distributor, or blender has notified as described under subsection (3) of this section; and

(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(ii) Before accepting the first shipment of dangerous waste fuel from another blender or distributor, the blender must provide the other blender or distributor with a one-time written and signed certification that the blender has complied with the notification requirements described in subsection (3) of this section; and

(f) Recordkeeping. A blender must keep a copy of each certification notice received or sent for at least five years from the date the blender last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.

(8) Standards applicable to burners of dangerous waste fuel.

Owners and operators of industrial furnaces and boilers identified in subsection (3)(b) of this section must comply with:

(a) Prohibitions. The prohibitions under subsection (3) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. A burner who has previously notified the department of dangerous waste management activities and obtained an EPA/state

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identification number, must renotify to identify the dangerous waste fuel activities;

(c) Storage.

(i) For short term accumulation by generators who burn their dangerous waste fuel on-site, the applicable provisions of WAC 173-303-200 or 173-303-201.

(ii) For all burners who store dangerous waste fuel, the applicable storage provisions of:

(A) WAC 173-303-280 through 173-303-395;

(B) WAC 173-303-800 through 173-303-840; and

(C) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities (the air emission requirements do not apply to burners that meet the small quantity burner exemption at 40 CFR 266.101);

(d) Required notices. Before a burner accepts the first shipment of dangerous waste fuel from a distributor, or a blender, or a generator the burner must provide the distributor, or the blender, or the generator a one-time written and signed notice certifying that:

(i) The burner has notified as described under subsection (3) of this section; and

(ii) The dangerous waste fuel will only be burned in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(e) Recordkeeping. In addition to the applicable record-keeping requirements of WAC 173-303-380, a burner must keep a copy of each certification notice sent for at least five years from the date the burner last receives dangerous waste fuel from the person who received the certification notice.

(f) Local requirements. Any person who burns dangerous waste for energy recovery must comply with air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists).

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-515 Standards for the management of used oil. (1) **Purpose.** The purpose of this section is to provide used oil management standards for generators, transporters, collection centers, aggregation points, transfer facilities, processors, and re-refiners, burners, and marketers of used oil.

(2) **Definitions.** In addition to the terms used in this chapter, the definitions of 40 CFR Part 279 are incorporated by reference when managing used oil under this section. The term "hazardous waste" used in 40 CFR Part 279 means "dangerous waste" as defined in WAC 173-303-040.

(3) **Applicability.** This section identifies those materials subject to regulation as used oil. For the purpose of this section, the applicability statements of 40 CFR Part 279.10 are incorporated by reference, except 40 CFR Part 279.10 (b)(2) and (3), and as modified below.

Materials containing or otherwise contaminated with or derived from used oil: The term "materials" used in 40 CFR Part 279.10 does not include dangerous waste.

(4) **Used oil specifications.** For the purpose of managing materials under this section, 40 CFR Part 279.11 and 40

CFR Part 261.3 (a)(2)(v) (rebuttable presumption) are incorporated by reference.

The table is included below for the reader's convenience.

Table 1—Used Oil Exceeding any Specification Level is Subject to this Section When Burned for Energy Recovery

Constituent/property	Allowable level
Arsenic	5 ppm maximum
Cadmium	2 ppm maximum
Chromium	10 ppm maximum
Lead	100 ppm maximum
Flash point	100° F minimum
Total halogens	4,000 ppm maximum\1\

Note: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).

\1\ Used oil containing more than 1,000 ppm total halogens is presumed to be a dangerous waste under the rebuttable presumption provided under 40 CFR 279.10(b)(1). Such used oil is subject to 40 CFR Subpart H of Part 266 rather than this section when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

(5) **Prohibitions.** The prohibitions of 40 CFR Part 279.12 are incorporated by reference. The prohibitions for managing materials under this section include those listed in 40 CFR Part 279.12 and the following:

(a) Materials designating as EHW or (~~W001~~) **WPCB** cannot be managed under this section when burned for energy recovery. Note: Materials managed under this section containing 2 ppm or greater PCBs are subject to applicable requirements of 40 CFR Part 761.20(e).

(b) Metal working fluids that are formulated with chlorinated compounds such as chlorinated paraffins or chlorinated alkene polymers cannot be managed under this section when burned for energy recovery.

(c) Ethylene glycol based fluids cannot be managed under this section. These fluids are subject to section WAC 173-303-522 when recycled.

(d) The use of used oil or other materials managed under this section as a dust suppressant is prohibited.

(e) Materials to be managed under this section are prohibited from being mixed with any dangerous waste. If any material managed under this section is mixed with dangerous waste, the resultant mixture is dangerous waste and must be managed as such.

(6) **Standards for used oil generators.** This subsection applies to all used oil generators and persons managing materials under this section. The standards for used oil generators of 40 CFR Parts 279.20 through 279.24 are incorporated by reference except 40 CFR Part 279.21. Used oil generators and persons managing materials under this subsection are subject to the federal regulations listed above and the following:

(a) Storage requirements for containers and tanks.

(i) Containers must be closed at all times, except when adding or removing materials managed under this section.

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(ii) Containers and tanks must not be opened, handled, managed or stored in a manner that may cause the container or tank to leak or rupture.

(b) Secondary containment requirements for storage of material managed under this section in tanks and containers.

The department may require secondary containment, on a case-by-case basis, in accordance with some or all of the requirements in WAC 173-303-630(7) and 173-303-640(4) if the department determines that a potential for spills and discharges, mismanagement, or other factors pose a threat to human health or the environment.

(c) Self-transport to approved collection centers. In addition to 40 CFR Part 279.24(a), generators may self-transport quantities greater than 55 gallons to a used oil collection center: Provided, That the owner/operator of the center records the name, address, telephone number, date of delivery and quantity of used oil being delivered to the site by the generator.

(7) Standards for used oil collection centers and aggregation points. For the purpose of managing materials under this section, 40 CFR Parts 279.30 through 279.32 are incorporated by reference. The standards for used oil collection centers under this subsection are those federal regulations listed above and the following modifications:

In addition to the requirements of 40 CFR Part 279.31, the owner or operator of a used oil collection center may accept greater than 55 gallons of used oil from generators: Provided, That:

(a) The requirements for a used oil transfer facility (40 CFR Parts 279.40 through 279.47) are complied with while that used oil is on site; and

(b) The owner/operator of the collection center records the name, address, telephone number, date of delivery and quantity of used oil being delivered to the site by the generator of the used oil; and

(c) Such records are kept on site for a period of three years.

(8) Standards for used oil transporters and transfer facilities. For the purpose of managing materials under this section, 40 CFR Parts 279.40 through 279.47 are incorporated by reference. The standards for used oil transfer facilities under this subsection are those federal regulations listed above and the following modifications:

Additional reports. Upon determination by the department that the storage of used oil in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store used oil. This authority applies to tanks and secondary containment systems used to store used oil in tanks and containers. The department's determination of a threat to public health or the environment may be based upon observations of factors that would contribute to spills or releases of used oil or the generation of hazardous by-products (e.g., hydrogen sulfide gas). Those observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.

(a) When required by the department, a qualified, independent professional engineer registered to practice in Washington state must perform the assessment of the integrity of tanks or secondary containment systems.

(b) Requirement for facility repairs and improvements. If, upon evaluation of information obtained by the department under (a) of this subsection, it is determined that repairs or structural improvements are necessary in order to eliminate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage unit and remove the used oil until the repairs or improvements are completed and approved by the department.

(9) Standards for used oil processors and re-refiners. For the purpose of managing materials under this section, 40 CFR Parts 279.50 through 279.59 are incorporated by reference. The standards for used oil processors and re-refiners under this subsection are those federal regulations listed above and the following:

(a) In addition to the general facility standards of 40 CFR Part 279.52, owners and operators of used oil processing and/or re-refining facilities regulated under this subsection are subject to the following:

(i) Used oil and other materials managed under ((this subsection)) the standards for management for used oil may be stored on-site without a permit for ninety days prior to entering an active recycling process. An active recycling process refers to a dynamic recycling operation that occurs within the recycling unit such as a distillation or centrifuge unit. The phrase does not refer to passive storage-like activities that occur, for example, when tanks or containers are used for phase separation or for settling impurities;

(ii) Facility closure standards of WAC 173-303-610 (2) and (12); and

(iii) Financial requirements of WAC 173-303-620 (1)(e).

(b) Additional reports. Upon determination by the department that the storage of used oil in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store used oil. This authority applies to tanks and secondary containment systems used to store used oil in tanks and containers. The department's determination of a threat to public health or the environment may be based upon observations of factors that would contribute to spills or releases of used oil or the generation of hazardous by-products (for example, hydrogen sulfide gas). Those observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.

(i) When required by the department, a qualified, independent professional engineer registered to practice in Washington state must perform the assessment of the integrity of tanks or secondary containment systems.

(ii) Requirement for facility repairs and improvements. If, upon evaluation of information obtained by the department under (b) of this subsection, it is determined that repairs or structural improvements are necessary in order to eliminate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage

unit and remove the used oil until such repairs or improvements are completed and approved by the department.

(10) **Standards for used oil burners who burn off-specification.** For the purpose of managing materials under this subsection, 40 CFR Parts 279.60 through 279.67 are incorporated by reference.

(11) **Standards for used oil fuel marketers.** For the purpose of managing materials under this subsection, 40 CFR Parts 279.70 through 279.75 are incorporated by reference.

(12) **Standards for disposal of used oil.** For the purpose of managing materials under this subsection, 40 CFR Parts 279.80 through 279.82(a) are incorporated by reference.

(13) **Testing required.** Notwithstanding any other provisions of this section, the department may require any person to test their used oil according to the methods set forth in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication, SW-846* to either determine if the used oil is on-specification as described in WAC 173-303-515(4), determine whether the used oil contains a listed hazardous waste, or determine if the used oil is prohibited from being managed as used oil in WAC 173-303-515(5).

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-525 Special requirements for recyclable material utilized for precious metal recovery. (1) Applicability and requirements. (Also, see WAC 173-303-120(3).)

(a) This section applies to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these.

(b) Persons who generate, transport, or store recyclable materials that are regulated under this section are subject to the following requirements:

(i) Notification requirements under WAC 173-303-060;
(ii) WAC 173-303-180 (for generators), 173-303-250 (for transporters), and 173-303-370 (for persons who store); and

(iii) For precious metals exported to or imported from designated OECD member countries for recovery, 40 CFR subpart H of part 262 (incorporated by reference at WAC 173-303-230(1)) and WAC 173-303-290 (1)(b). For precious metals exported to or imported from non-OECD countries for recovery, 40 CFR subpart E (incorporated by reference at WAC 173-303-230(1)) and WAC 173-303-230(2).

(c) Persons who store recycled materials that are regulated under this section must keep the following records to document that they are not accumulating these materials speculatively (as defined in WAC 173-303-016 (5)(d)(ii));

(i) Records showing the volume of these materials stored at the beginning of the calendar year;

(ii) The amount of these materials generated or received during the calendar year; and

(iii) The amount of materials remaining at the end of the calendar year.

(d) Recyclable materials that are regulated under this section that are accumulated speculatively (as defined in

WAC 173-303-016 (5)(d)(ii)) are dangerous wastes and are subject to all applicable provisions of this chapter.

(2) Additional regulation of recyclable materials utilized for precious metal recovery on a case-by-case basis.

The department may decide on a case-by-case basis that persons accumulating or storing recyclable materials utilized for precious metal recovery should be regulated under WAC 173-303-120(4). The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the department will consider the following factors:

(a) The types of materials accumulated or stored and the amounts accumulated or stored;

(b) The method of accumulation or storage;

(c) The length of time the materials have been accumulated or stored before being reclaimed;

(d) Whether any contaminants are being released into the environment, or are likely to be so released; and

(e) Other relevant factors.

The procedures for this decision are set forth in subsection (3) of this section.

(3) Procedures for case-by-case regulation of recyclable materials utilized for precious metal recovery.

The department will use the following procedures when determining whether to regulate recyclable materials utilized for precious metal recovery under the provisions of WAC 173-303-120(4), rather than under the provisions of subsection (1) of this section.

(a) If a generator is accumulating the waste, the department will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of WAC 173-303-170 and 173-303-190 through 173-303-230. The notice will become final within thirty days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the department will hold a public hearing. The department will provide notice of the hearing to the public and allow public participation at the hearing. The department will issue a final order after the hearing stating whether or not compliance with WAC 173-303-170 and 173-303-190 through 173-303-230 is required. The order becomes effective thirty days after service of the decision unless the department specifies a later date or unless review by the department is requested. The order may be appealed to the pollution control hearings board, in accordance with WAC 173-303-845, by any person who participated in the public hearing.

(b) If the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of WAC 173-303-800 through 173-303-840. The owner or operator of the facility must apply for a permit within no less than sixty days and no more than six months of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the department's decision he may do so in his permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompa-

nying the permit will specify the reasons for the department's determination. The question of whether the department's decision was proper will remain open for consideration during the public comment period discussed under WAC 173-303-840 (4)(d) and in any subsequent hearing.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-573 Standards for universal waste management. (1) Scope.

(a) This section establishes requirements for managing the following:

(i) Batteries as described in subsection (2) of this section;

(ii) Thermostats as described in subsection (3) of this section; ~~((and))~~

(iii) Mercury-containing equipment as described in subsection (4) of this section; and

(iv) Lamps as described in subsection (5) of this section.

(b) This section provides an alternative set of management standards in lieu of regulation under the rest of this chapter except for WAC 173-303-050, 173-303-145, and 173-303-960.

(2) Applicability—Batteries.

(a) Batteries covered under this section.

(i) The requirements of this section apply to persons managing batteries, as described in WAC 173-303-040, except those listed in (b) of this subsection.

(ii) Spent lead-acid batteries which are not managed under WAC 173-303-120 (3)(f) and 173-303-520, are subject to management under this section.

(b) Batteries not covered under this section. The requirements of this section do not apply to persons managing the following batteries:

(i) Spent lead-acid batteries that are managed under WAC 173-303-120(3) and 173-303-520.

(ii) Batteries, as described in WAC 173-303-040, that are not yet wastes under WAC 173-303-016, 173-303-017, or 173-303-070, including those that do not meet the criteria for waste generation in (c) of this subsection.

(iii) Batteries, as described in WAC 173-303-040, that are not dangerous waste. A battery is a dangerous waste if it exhibits one or more of the characteristics or criteria identified in WAC 173-303-090 or 173-303-100.

(c) Generation of waste batteries.

(i) A used battery becomes a waste on the date it is discarded (e.g., when sent for reclamation).

(ii) An unused battery becomes a waste on the date the handler decides to discard it.

(3) Applicability—Mercury thermostats.

(a) Thermostats covered under this section. The requirements of this section apply to persons managing thermostats, as described in WAC 173-303-040, except those listed in (b) of this subsection.

(b) Thermostats not covered under this section. The requirements of this section do not apply to persons managing the following thermostats:

(i) Thermostats that are not yet wastes under WAC 173-303-016, 173-303-017, or 173-303-070. Paragraph (c) of this subsection describes when thermostats become wastes.

(ii) Thermostats that are not dangerous waste. A thermostat is a dangerous waste if it exhibits one or more of the characteristics or criteria identified in WAC 173-303-090 or 173-303-100.

(c) Generation of waste thermostats.

(i) A used thermostat becomes a waste on the date it is discarded (e.g., sent for reclamation).

(ii) An unused thermostat becomes a waste on the date the handler decides to discard it.

~~(4) ((Applicability—Household and conditionally exempt small quantity generator waste.~~

~~(a) Persons managing the wastes listed below may, at their option, manage them under the requirements of this section:~~

~~(i) Household wastes that are exempt under WAC 173-303-071 (3)(e) and are also of the same type as the universal wastes defined at WAC 173-303-040; and/or~~

~~(ii) Small quantity generator wastes that are conditionally exempt under WAC 173-303-070(8) and are also of the same type as the universal wastes defined at WAC 173-303-040.~~

~~(b) Persons who commingle the wastes described in (a)(i) and (ii) of this subsection together with universal waste regulated under this section must manage the commingled waste under the requirements of this section.)~~ **Applicability—Mercury-containing equipment.**

(a) Mercury-containing equipment covered under this section. The requirements of this section apply to persons managing mercury-containing equipment, as described in WAC 173-303-040, except those listed in (b) of this subsection.

(b) Mercury-containing equipment not covered under this section. The requirements of this section do not apply to persons managing the following mercury-containing equipment:

(i) Mercury-containing equipment that is not yet a waste under WAC 173-303-016, 173-303-017, or 173-303-070. Paragraph (c) of this subsection describes when mercury-containing equipment becomes a waste.

(ii) Mercury-containing equipment that is not a dangerous waste. Mercury-containing equipment that does not exhibit one or more of the characteristics or criteria identified in WAC 173-303-090 or 173-303-100 is not dangerous waste.

(c) Generation of waste mercury-containing equipment.

(i) Used mercury-containing equipment becomes a waste on the date it is discarded.

(ii) Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

(5) Applicability—Lamps.

(a) Lamps covered under this section. The requirements of this section apply to persons managing lamps, as described in WAC 173-303-040, except those listed in (b) of this subsection.

(b) Lamps not covered under this section. The requirements of this section do not apply to persons managing the following lamps:

(i) Lamps that are not yet wastes under WAC 173-303-016, 173-303-017, or 173-303-070. Paragraph (c) of this subsection describes when lamps become wastes.

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(ii) Lamps that are not dangerous waste. Lamps that do not exhibit one or more of the characteristics or criteria identified in WAC 173-303-090 or 173-303-100 are not dangerous waste.

(c) Generation of waste lamps.

(i) A used lamp becomes a waste on the date it is discarded.

(ii) An unused lamp becomes a waste on the date the handler decides to discard it.

(6) **Applicability—Small quantity handlers of universal waste.** Subsections (6) through (16) of this section apply to small quantity handlers of universal waste (as defined in WAC 173-303-040).

(7) **Prohibitions.**

A small quantity handler of universal waste is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in subsection (13) of this section; or by managing specific wastes as provided in subsection (9) of this section.

(8) **Notification.**

A small quantity handler of universal waste is not required to notify the department of universal waste handling activities.

(9) **Waste management.**

(a) Universal waste batteries. A small quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(ii) A small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

(A) Sorting batteries by type;

(B) Mixing battery types in one container;

(C) Discharging batteries so as to remove the electric charge;

(D) Regenerating used batteries;

(E) Disassembling batteries or battery packs into individual batteries or cells;

(F) Removing batteries from consumer products; or

(G) Removing electrolyte from batteries.

(iii) A small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100.

(A) If the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste, it is subject to all

applicable requirements of this chapter. The handler is considered the generator of the dangerous electrolyte and/or other waste and is subject to WAC 173-303-170 through 173-303-230.

(B) If the electrolyte or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste thermostats and mercury-containing equipment. A small quantity handler of universal waste must manage universal waste thermostats and mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A small quantity handler of universal waste must ~~((contain))~~ place in a container any universal waste thermostat or mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions ~~((in a container))~~. The container must be closed, structurally sound, compatible with the contents of the thermostat or device, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(ii) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats or mercury-containing equipment provided the handler:

(A) Removes the ampules in a manner designed to prevent breakage of the ampules;

(B) Removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(C) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of WAC 173-303-200;

(D) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of WAC 173-303-200;

(E) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(F) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(G) Stores removed ampules in closed, nonleaking containers that are in good condition;

(H) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

(iii)(A) A small quantity handler of universal waste who removes mercury-containing ampules from thermostats or mercury-containing equipment must determine whether the following exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100:

(I) Mercury or clean-up residues resulting from spills or leaks; and/or

(II) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units or mercury-containing equipment).

(B) If the mercury, residues, and/or other solid waste exhibit a characteristic or criteria of dangerous waste, it must be managed in compliance with all applicable requirements of this chapter. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it subject to WAC 173-303-170 through 173-303-230.

(C) If the mercury, residues, and/or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(c) Universal waste lamps. A small quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A small quantity handler of universal waste must immediately clean up and place in a container any universal waste lamps that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(ii) A small quantity handler of universal waste must minimize lamp breakage by accumulating lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. The containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(iii) A small quantity handler of universal waste must store lamps accumulated in cardboard or fiber containers indoors, meaning in a structure that prevents the container from being exposed to the elements.

(10) Labeling/markings.

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries (i.e., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

(b) Universal waste thermostats (i.e., each thermostat), or a container in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(c) Mercury-containing equipment, or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

(d) Universal waste lamps (i.e., each lamp), or a container in which the lamps are accumulated, must be labeled or marked clearly with any one of the following phrases: "Uni-

versal Waste Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

(11) Accumulation time limits.

(a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of (b) of this subsection are met.

(b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(i) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(ii) Marking or labeling each individual item of universal waste (for example, each battery, thermostat, mercury-containing equipment, or lamp) with the date it became a waste or was received;

(iii) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;

(iv) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(v) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(vi) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

(12) Employee training.

A small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.

(13) Response to releases.

(a) A small quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A small quantity handler of universal waste must determine whether any material resulting from the release is dangerous waste, and if so, must manage the dangerous waste in compliance with all applicable requirements of this chapter. The handler is considered the generator of the material

resulting from the release, and must manage it in compliance with WAC 173-303-170 through 173-303-230.

(14) Off-site shipments.

(a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a small quantity handler of universal waste self-transport universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of subsections (28) through (34) of this section while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR Parts 171 through 180, a small quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 CFR Parts 172 through 180.

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

(i) Receive the waste back when notified that the shipment has been rejected, or

(ii) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A small quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he must contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler must:

(i) Send the shipment back to the originating handler; or

(ii) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a small quantity handler of universal waste receives a shipment containing dangerous waste that is not a universal waste, the handler must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The department will provide instructions for managing the dangerous waste.

(h) If a small quantity handler of universal waste receives a shipment of nondangerous, nonuniversal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(15) Tracking universal waste shipments.

A small quantity handler of universal waste is not required to keep records of shipments of universal waste.

(16) Exports.

A small quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in 40 CFR 262.58 (a)(1) (in which case the handler is subject to the requirements of 40 CFR part 262, subpart H which is incorporated by reference at WAC 173-303-230) must:

(a) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a) (1) through (4), (6), and (b) and 262.57 which are incorporated by reference at WAC 173-303-230(1);

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in 40 CFR Subpart E of Part 262 which is incorporated by reference at WAC 173-303-230(1); and

(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

(17) Applicability—Large quantity handlers of universal waste.

Subsections (17) through (27) of this section apply to large quantity handlers of universal waste (as defined in WAC 173-303-040).

(18) Prohibitions.

A large quantity handler of universal waste is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in subsection (24) of this section; or by managing specific wastes as provided in subsection (20) of this section.

(19) Notification.

(a)(i) Except as provided in (a)(ii) of this subsection, a large quantity handler of universal waste must have sent written notification of universal waste management to the department, and received an EPA Identification Number, before meeting or exceeding the 11,000 pound storage limit and/or before meeting or exceeding the 2,200 pound storage limit for lamps.

(ii) A large quantity handler of universal waste who has already notified the department of their dangerous waste management activities and has received an EPA Identification Number is not required to renotify under this section.

(b) This notification must include:

(i) The universal waste handler's name and mailing address;

(ii) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;

(iii) The address or physical location of the universal waste management activities;

(iv) A list of all of the types of universal waste managed by the handler (e.g., batteries, thermostats, mercury-containing equipment, or lamps);

(v) A statement indicating that the handler is accumulating more than 11,000 pounds of universal waste at one time and the types of universal waste (e.g., batteries, thermostats, mercury-containing equipment, or lamps) the handler is accumulating above this quantity, and/or a statement indicating that the handler is accumulating more than 2,200 pounds of lamps at one time. (For example, if a handler is accumul-

ing ~~((5,000))~~ 4,000 pounds of batteries, ~~((5,500))~~ 4,500 pounds of thermostats, 2,000 pounds of mercury-containing equipment and 600 pounds of universal waste lamps, they would notify for having 11,100 pounds of universal waste at one time - likewise, if a handler is accumulating ~~((2,000))~~ 1,000 pounds of batteries, ~~((5,000))~~ 4,000 pounds of thermostats, 2,000 pounds of mercury-containing equipment and 2,400 pounds of universal waste lamps, they would also need to notify for exceeding the 2,200 pound limit for universal waste lamps.)

(20) Waste management.

(a) Universal waste batteries. A large quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(ii) A large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

- (A) Sorting batteries by type;
- (B) Mixing battery types in one container;
- (C) Discharging batteries so as to remove the electric charge;
- (D) Regenerating used batteries;
- (E) Disassembling batteries or battery packs into individual batteries or cells;
- (F) Removing batteries from consumer products; or
- (G) Removing electrolyte from batteries.

(iii) A large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100.

(A) If the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste, it must be managed in compliance with all applicable requirements of this chapter. The handler is considered the generator of the dangerous electrolyte and/or other waste and is subject to WAC 173-303-170 through 173-303-230.

(B) If the electrolyte or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste thermostats and mercury-containing equipment. A large quantity handler of universal waste must manage universal waste thermostats and mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A large quantity handler of universal waste must ~~((contain))~~ place in a container any universal waste thermostat or mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions ~~((in a container))~~. The container must be closed, structurally sound, compatible with the contents of the thermostat or mercury-containing equipment, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(ii) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats or mercury-containing equipment provided the handler:

(A) Removes the ampules in a manner designed to prevent breakage of the ampules;

(B) Removes ampules only over or in a containment device (e.g., tray or pan sufficient to contain any mercury released from an ampule in case of breakage);

(C) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of WAC 173-303-200;

(D) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of WAC 173-303-200;

(E) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(F) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(G) Stores removed ampules in closed, nonleaking containers that are in good condition;

(H) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

(iii)(A) A large quantity handler of universal waste who removes mercury-containing ampules from thermostats or mercury-containing equipment must determine whether the following exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100:

(I) Mercury or clean-up residues resulting from spills or leaks; and/or

(II) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units or equipment).

(B) If the mercury, residues, and/or other solid waste exhibit a characteristic or criteria of dangerous waste, it must be managed in compliance with all applicable requirements of this chapter. The handler is considered the generator of the mercury, residues, and/or other waste and is subject to WAC 173-303-170 through 173-303-230.

(C) If the mercury, residues, and/or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

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(c) Universal waste lamps. A large quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A large quantity handler of universal waste must immediately clean up and place in a container any universal waste lamps that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(ii) A large quantity handler of universal waste must minimize lamp breakage by accumulating lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. The containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(iii) A large quantity handler of universal waste must store lamps accumulated in cardboard or fiber containers indoors, meaning in a structure that prevents a container from being exposed to the elements.

(21) Labeling/marketing.

A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with the any one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

(b) Universal waste thermostats (i.e., each thermostat), or a container or tank in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(c) Mercury-containing equipment, or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

(d) Universal waste lamp (i.e., each lamp), or a container in which the lamps are accumulated, must be labeled or marked clearly with any one of the following phrases: "Universal Waste Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

(22) Accumulation time limits.

(a) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of (b) of this subsection are met.

(b) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as neces-

sary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A large quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(i) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(ii) Marking or labeling the individual item of universal waste (for example, each battery, thermostat, mercury-containing equipment, or lamp) with the date it became a waste or was received;

(iii) Maintaining an inventory system on site that identifies the date the universal waste being accumulated became a waste or was received;

(iv) Maintaining an inventory system on site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(v) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(vi) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

(23) Employee training.

A large quantity handler of universal waste must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

(24) Response to releases.

(a) A large quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A large quantity handler of universal waste must determine whether any material resulting from the release is dangerous waste, and if so, must manage the dangerous waste in compliance with all applicable requirements of this chapter. The handler is considered the generator of the material resulting from the release, and is subject to WAC 173-303-145 and 173-303-170 through 173-303-230.

(25) Off-site shipments.

(a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a large quantity handler of universal waste self-transport universal waste off site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of subsections (28) through (34) of this section while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171 through 180, a large quantity handler of univer-

sal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 CFR Parts 172 through 180;

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

(i) Receive the waste back when notified that the shipment has been rejected; or

(ii) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he must contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler must:

(i) Send the shipment back to the originating handler; or

(ii) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a large quantity handler of universal waste receives a shipment containing dangerous waste that is not a universal waste, the handler must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The department will provide instructions for managing the dangerous waste.

(h) If a large quantity handler of universal waste receives a shipment of nondangerous, nonuniversal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(26) Tracking universal waste shipments.

(a) Receipt of shipments. A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

(i) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;

(ii) The quantity of each type of universal waste received (for example, batteries, thermostats, mercury-containing equipment, or lamps);

(iii) The date of receipt of the shipment of universal waste.

(b) Shipments off site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent must include the following information:

(i) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;

(ii) The quantity of each type of universal waste sent (for example, batteries, thermostats, mercury-containing equipment, or lamps);

(iii) The date the shipment of universal waste left the facility.

(c) Record retention.

(i) A large quantity handler of universal waste must retain the records described in (a) of this subsection for at least three years from the date of receipt of a shipment of universal waste.

(ii) A large quantity handler of universal waste must retain the records described in (b) of this subsection for at least three years from the date a shipment of universal waste left the facility.

(27) Exports.

A large quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in 40 CFR 262.58 (a)(1) (in which case the handler is subject to the requirements of 40 CFR part 262, subpart H which is incorporated by reference at WAC 173-303-230) must:

(a) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56 (a) (1) through (4), (6), and (b) and 262.57 which are incorporated by reference at WAC 173-303-230(1);

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in 40 CFR 262 Subpart E which is incorporated by reference at WAC 173-303-230(1); and

(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

(28) Applicability—Universal waste transporters.

Subsections (28) through (34) of this section apply to universal waste transporters (as defined in WAC 173-303-040).

(29) Prohibitions.

A universal waste transporter is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in subsection (32) of this section.

(30) Waste management.

(a) A universal waste transporter must comply with all applicable U.S. Department of Transportation regulations in 49 CFR Part 171 through 180 for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8. For purposes of the Department of Transportation regulations, a material is considered a dangerous waste if it is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in WAC 173-303-180. Because universal waste does not require a dangerous waste manifest, it is not considered hazardous waste under the Department of Transportation regulations.

(b) Some universal waste materials are regulated by the Department of Transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2. As universal waste shipments do not require a manifest under WAC 173-303-180, they may not be described by the DOT proper shipping name "hazardous waste, (l) or (s), n.o.s.," nor may the hazardous material's proper shipping name be modified by adding the word "waste."

(31) Storage time limits.

(a) A universal waste transporter may only store the universal waste at a universal waste transfer facility for ten days or less.

(b) If a universal waste transporter stores universal waste for more than ten days, the transporter becomes a universal waste handler and must comply with the applicable requirements for small or large quantity handlers (subsections (6) through (27) of this section) while storing the universal waste.

(32) Response to releases.

(a) A universal waste transporter must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A universal waste transporter must determine whether any material resulting from the release is dangerous waste, and if so, it is subject to all applicable requirements of this chapter. If the waste is determined to be a dangerous waste, the transporter is subject to WAC 173-303-145 and 173-303-170 through 173-303-230.

(33) Off-site shipments.

(a) A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.

(b) If the universal waste being shipped off site meets the Department of Transportation's definition of hazardous materials under 49 CFR 171.8, the shipment must be properly described on a shipping paper in accordance with the applicable Department of Transportation regulations under 49 CFR Part 172.

(34) Exports.

A universal waste transporter transporting a shipment of universal waste to a foreign destination other than to those OECD countries specified in 40 CFR 262.58 (a)(1) (in which case the handler is subject to the requirements of 40 CFR part 262, subpart H which is incorporated by reference at WAC 173-303-230) may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must ensure that:

(a) A copy of the EPA Acknowledgment of Consent accompanies the shipment; and

(b) The shipment is delivered to the facility designated by the person initiating the shipment.

(35) Applicability—Destination facilities. Subsections (35) through (37) of this section apply to destination facilities.

(a) The owner or operator of a destination facility (as defined in WAC 173-303-040) is subject to all applicable requirements of WAC 173-303-140 and 173-303-141, 173-

303-280 through 173-303-525, 173-303-600 through 173-303-695, 173-303-800 through 173-303-840, and the notification requirement at WAC 173-303-060:

(b) The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled must comply with WAC 173-303-120 (4)(c).

(36) Off-site shipments.

(a) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility or foreign destination.

(b) The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, he must contact the shipper to notify him of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility must:

(i) Send the shipment back to the original shipper; or

(ii) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

(c) If the owner or operator of a destination facility receives a shipment containing dangerous waste that is not a universal waste, the owner or operator of the destination facility must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the shipper. The department will provide instructions for managing the dangerous waste.

(d) If the owner or operator of a destination facility receives a shipment of nondangerous, nonuniversal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or state solid waste regulations.

(37) Tracking universal waste shipments.

(a) The owner or operator of a destination facility must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

(i) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;

(ii) The quantity of each type of universal waste received (for example, batteries ((☹)), thermostats, mercury-containing equipment, or lamps);

(iii) The date of receipt of the shipment of universal waste.

(b) The owner or operator of a destination facility must retain the records described in (a) of this subsection for at least three years from the date of receipt of a shipment of universal waste.

(38) Imports.

Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of this section, immediately after the waste enters the United States, as indicated below:

(a) A universal waste transporter is subject to the universal waste transporter requirements of subsections (28) through (34) of this section.

(b) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of subsections (6) through (27) of this section, as applicable.

(c) An owner or operator of a destination facility is subject to the destination facility requirements of subsections (35) through (37) of this section.

(39) **General—Petitions.** Subsections (39) and (40) of this section address petitions to include other wastes under this section.

(a) Any person seeking to add a dangerous waste or a category of dangerous waste to this section may petition for a regulatory amendment under subsections (39) and (40) of this section and WAC 173-303-910 (1) and (7).

(b) To be successful, the petitioner must demonstrate to the satisfaction of the department that regulation under the universal waste regulations of this section is: Appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the dangerous waste program. The petition must include the information required by WAC 173-303-910 (1)(b). The petition should also address as many of the factors listed in subsection (40) of this section as are appropriate for the waste or waste category addressed in the petition.

(c) The department will evaluate petitions using the factors listed in subsection (40) of this section. The department will grant or deny a petition using the factors listed in subsection (40) of this section. The decision will be based on the weight of evidence showing that regulation under this section is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the dangerous waste program.

(40) **Factors for petitions to include other wastes under this section.**

(a) The waste or category of waste, as generated by a wide variety of generators, is listed in WAC 173-303-081 or 173-303-082, or (if not listed) a proportion of the waste stream exhibits one or more characteristics or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100. (When a characteristic waste is added to the universal waste regulations of this section by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in WAC 173-303-040 will be amended to include only the dangerous waste portion of the waste category (e.g., dangerous waste batteries.) Thus, only the portion of the waste stream that does exhibit one or more characteristics or criteria (i.e., is dangerous waste) is subject to the universal waste regulations of this section;

(b) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity generators, small businesses, government organizations, as well as large industrial facilities);

(c) The waste or category of waste is generated by a large number of generators (e.g., more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;

(d) Systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;

(e) The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other dangerous wastes, and specific management standards proposed or referenced by the petitioner (e.g., waste management requirements appropriate to be added to subsections (9), (20), and (30) of this section; and/or applicable Department of Transportation requirements) would be protective of human health and the environment during accumulation and transport;

(f) Regulation of the waste or category of waste under this section will increase the likelihood that the waste will be diverted from nondangerous waste management systems (e.g., the municipal waste stream, nondangerous industrial or commercial waste stream, municipal sewer or stormwater systems) to recycling, treatment, or disposal in compliance with the Hazardous Waste Management Act chapter 70.105 RCW, this chapter, and RCRA Subtitle C.

(g) Regulation of the waste or category of waste under this section will improve implementation of and compliance with the dangerous waste regulatory program; and/or

(h) Such other factors as may be appropriate.

(41) Applicability—Household and conditionally exempt small quantity generator waste.

(a) Persons managing the wastes listed below may, at their option, manage them under the requirements of this section:

(i) Household wastes that are exempt under WAC 173-303-071 (3)(c) and are also of the same type as the universal wastes defined at WAC 173-303-040; and/or

(ii) Small quantity generator wastes that are conditionally exempt under WAC 173-303-070(8) and are also of the same type as the universal wastes defined at WAC 173-303-040.

(b) Persons who commingle the wastes described in (a)(i) and (ii) of this subsection together with universal waste regulated under this section must manage the commingled waste under the requirements of this section.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-600 Final facility standards. Purpose, scope, and applicability.

(1) The purpose of WAC 173-303-600 through 173-303-695, is to establish minimum statewide standards which describe the acceptable management of dangerous waste. In addition to WAC 173-303-600 through 173-303-695, the final facility standards include WAC 173-303-280 through 173-303-395.

(2) The final facility standards apply to owners and operators of all facilities which treat, store or dispose of dangerous waste, and which are not exempted by subsection (3) of this section.

PROPOSED

(3) The final facility standards do not apply to:

(a) Persons whose disposal activities are permitted under the Marine Protection, Research and Sanctuaries Act, except that storage, or treatment facilities where dangerous waste is loaded onto an ocean vessel for incineration or disposal at sea are subject to final facility standards;

(b) Persons whose disposal activities are permitted under the underground injection control program of the Safe Drinking Water Act, except that storage, or treatment facilities needed to handle dangerous wastes are subject to final facility standards;

(c) The owner or operator of a POTW which treats, stores, or disposes of dangerous waste provided he has a permit by rule pursuant to the requirements of WAC 173-303-802(4);

(d) A generator accumulating waste on site in compliance with WAC 173-303-200;

(e) The owner or operator of a facility which is permitted to manage solid waste pursuant to chapter ~~((173-304))~~ 173-350 WAC, if the only dangerous waste the facility manages is excluded from regulation under this chapter by WAC 173-303-070(8);

(f) A farmer disposing of waste pesticides from his own use provided he complies with WAC 173-303-160 (2)(b);

(g) A transporter storing a manifested shipment of dangerous waste for ten days or less in accordance with WAC 173-303-240~~((5))~~(6);

(h) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance;

(i) The owner or operator of a facility which is in compliance with the interim status requirements of WAC 173-303-400 and 173-303-805, until final administrative disposition of his final facility permit;

(j) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment unit as defined in WAC 173-303-040, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(5);

(k) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(l) The compaction or sorting of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(m) Generators treating dangerous waste on-site in tanks, containers, or containment buildings that are used for accumulation of such wastes provided the generator complies with the WAC 173-303-170(3);

(n) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in WAC 173-303-040, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 40 CFR section 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in WAC 173-303-395 (1)(a);

(o) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the wastes listed below. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.

(i) Batteries as described in WAC 173-303-573(2);

(ii) Thermostats as described in WAC 173-303-573(3); ~~((and))~~

(iii) Mercury-containing equipment as described in WAC 173-303-573(4); and

(iv) Lamps as described in WAC 173-303-573(5);

(p)(i) Except as provided in (p)(ii) of this subsection, a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) A discharge of a dangerous waste;

(B) An imminent and substantial threat of a discharge of dangerous waste;

(C) A discharge of a material that, when discharged, becomes a dangerous waste;

(D) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in WAC 173-303-040.

(ii) An owner or operator of a facility otherwise regulated by WAC 173-303-600 must comply with all applicable requirements of WAC 173-303-340 and 173-303-350.

(iii) Any person who is covered by (p)(i) of this subsection and who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(iv) In the case of an explosives or munitions emergency response, if a federal, state, tribal or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA/state identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition;

(q) ~~WAC 173-303-578~~ identifies when the requirements of WAC 173-303-600 apply to the storage of military munitions classified as solid waste under WAC 173-303-578(2).

The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards in this chapter.

(4) Reserve.

(5) The owner or operator of a facility which recycles dangerous waste may, for such recycled wastes only, comply with the applicable recycling standards specified in WAC 173-303-120 and 173-303-500 through 173-303-525 in lieu of the final facility standards.

(6) The owner or operator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

(7) The final facility requirements apply to owners or operators of all facilities that treat, store, or dispose of hazardous wastes referred to in 40 CFR Part 268, which is incorporated by reference at WAC 173-303-140(2).

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-610 Closure and post-closure. (1) Applicability.

(a)(i) Subsections (2) through (6) of this section, (which concern closure), apply to the owners and operators of all dangerous waste facilities.

(ii) Subsections (2) and (12) of this section apply to the owners and operators who receive recyclable dangerous waste or used oil from off-site and place them in recycling units.

(b) Subsections (7) through (11) of this section, (which concern post-closure care), apply to the owners and operators of all regulated units (as defined in WAC 173-303-040) at which dangerous waste will remain after closure, to tank systems that are required under WAC 173-303-640(8) to meet the requirements of landfills, to surface impoundments, waste piles, and miscellaneous units as specified in WAC 173-303-650(6), 173-303-660(9), and 173-303-680(4), respectively; to containment buildings that are required under 40 CFR 264.1102 (incorporated by reference at WAC 173-303-695) to meet the requirements for landfills; and, unless otherwise authorized by the department, to the owners and operators of all facilities which, at closure, cannot meet the removal or decontamination limits specified in subsection (2)(b) of this section.

(c) For the purposes of the closure and post-closure requirements, any portion of a facility which closes is subject to the applicable closure and post-closure standards even if the rest of the facility does not close and continues to operate.

(d) Except for subsection (2)(a) of this section, the director may, in an enforceable document, replace all or part of the requirements of this section and the unit-specific requirements referenced in subsection (2)(b) of this section with alternative requirements when he or she determines:

(i) A dangerous waste unit is situated among other solid waste management units or areas of concern, a release has occurred, and both the dangerous waste unit and one or more of the solid waste management units or areas of concern are likely to have contributed to the release; and

(ii) It is not necessary to apply the requirements of this section (or the unit-specific requirements referenced in sub-

section (2)(b) of this section) because the alternative requirements will protect human health and the environment.

(2) Closure performance standard. The owner or operator must close the facility in a manner that:

(a)(i) Minimizes the need for further maintenance;

(ii) Controls, minimizes or eliminates to the extent necessary to protect human health and the environment, post-closure escape of dangerous waste, dangerous constituents, leachate, contaminated runoff, or dangerous waste decomposition products to the ground, surface water, ground water, or the atmosphere; and

(iii) Returns the land to the appearance and use of surrounding land areas to the degree possible given the nature of the previous dangerous waste activity.

(b) Where the closure requirements of this section, or of WAC 173-303-630(10), 173-303-640(8), 173-303-650(6), 173-303-655(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), 173-303-680 (2) through (4), or 40 CFR 264.1102 (incorporated by reference at WAC 173-303-695) call for the removal or decontamination of dangerous wastes, waste residues, or equipment, bases, liners, soils or other materials containing or contaminated with dangerous wastes or waste residue, then such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed:

(i) For soils, ground water, surface water, and air, the numeric cleanup levels calculated using ~~((residential))~~ unrestricted use exposure assumptions according to the Model Toxics Control Act Regulations, chapter 173-340 WAC as ~~((now))~~ of the effective date or hereafter amended. Primarily, these will be numeric cleanup levels calculated according to MTCA Method B, although MTCA Method A may be used as appropriate, see WAC 173-340-700 through 173-340-760, excluding WAC 173-340-745; and

(ii) For all structures, equipment, bases, liners, etc., clean closure standards will be set by the department on a case-by-case basis in accordance with the closure performance standards of WAC 173-303-610 (2)(a)(ii) and in a manner that minimizes or eliminates post-closure escape of dangerous waste constituents.

(3) Closure plan; amendment of plan.

(a) The owner or operator of a dangerous waste management facility must have a written closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the dangerous waste at partial or final closure are required by WAC 173-303-650(6) and 173-303-660(9) to have contingent closure plans. The plan must be submitted with the permit application, in accordance with WAC 173-303-806(4), and approved by the department as part of the permit issuance procedures under WAC 173-303-840. The approved closure plan will become a condition of any permit. The department's decision must assure that the approved closure plan is consistent with subsections (2), (3), (4), (5), and (6) of this section, and the applicable requirements of WAC 173-303-630(10), 173-303-640(8), 173-303-645, 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), 173-303-680(2), and 40 CFR 264.1102 (incorporated by reference at WAC 173-303-695). A copy of the approved plan and all revisions to the plan must be furnished to the depart-

ment upon request, including request by mail until final closure is completed and certified in accordance with subsection (6) of this section. The plan must identify steps necessary to perform partial and/or final closure of the facility at any point during its active life. The closure plan must include at least:

(i) A description of how each dangerous waste management unit at the facility will be closed in accordance with subsection (2) of this section;

(ii) A description of how final closure of the facility will be conducted in accordance with subsection (2) of this section. The description must identify the maximum extent of the operation which will be unclosed during the active life of the facility;

(iii) An estimate of the maximum inventory of dangerous wastes ever on-site over the active life of the facility. (Any change in this estimate is a Class 1 modification with prior approval under WAC 173-303-830(4));

(iv) A detailed description of the methods to be used during partial closures and final closure, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all dangerous wastes, and identification of the type(s) of the off-site dangerous waste management units to be used, if applicable;

(v) A detailed description of the steps needed to remove or decontaminate all dangerous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure, including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard;

(vi) A detailed description of other activities necessary during the closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, ground water monitoring, leachate collection, and run-on and runoff control;

(vii) A schedule for closure of each dangerous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each dangerous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all dangerous waste inventory and of the time required to place a final cover must be included.); and

(viii) For facilities that use trust funds to establish financial assurance under WAC 173-303-620 (4) or (6) and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure.

(ix) For facilities where the director has applied alternative requirements under subsection (1)(d) of this section, WAC 173-303-645 (1)(e), or 173-303-620 (8)(d), the closure plan must include either the alternative requirements or a reference to the enforceable document that contains the alternative requirements.

(b) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in operating plans, facility design, or the approved

closure plan in accordance with the applicable procedures in WAC 173-303-800 through 173-303-840. The written notification or request must include a copy of the amended closure plan for review or approval by the department.

(i) The owner or operator may submit a written notification or request to the department for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility.

(ii) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved closure plan whenever:

(A) Changes in operating plans or facility design affect the closure plan; or

(B) There is a change in the expected year of closure, if applicable; or

(C) In conducting partial or final closure activities, unexpected events require a modification of the approved closure plan; or

(D) The owner/operator requests the director apply alternative requirements under subsection (1)(d) of this section, WAC 173-303-645 (1)(e), or 173-303-620 (8)(d).

(iii) The owner or operator must submit a written request for a permit modification including a copy of the amended closure plan for approval at least sixty days prior to the proposed change in facility design or operation, or no later than sixty days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must request a permit modification no later than thirty days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all dangerous waste at closure and is not otherwise required to prepare a contingent closure plan under WAC 173-303-650(6) or 173-303-660(9), must submit an amended closure plan to the department no later than sixty days from the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the requirements of WAC 173-303-665, or no later than thirty days from that date if the determination is made during partial or final closure. The department will approve, disapprove, or modify this amended plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The approved closure plan will become a condition of any permit issued.

(iv) The department may request modifications to the plan under the conditions described in (b)(ii) of this subsection. The owner or operator must submit the modified plan within sixty days of the department's request, or within thirty days if the change in facility conditions occurs during partial or final closure. Any modifications requested by the department will be approved in accordance with the procedures in WAC 173-303-800 through 173-303-840.

(c) Notification of partial closure and final closure.

(i) The owner or operator must notify the department in writing at least sixty days prior to the date on which ~~((he))~~ they expect((s)) to begin closure of a surface impoundment, waste pile, land treatment, or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the department in writing at least forty-five days prior to the date on which ~~((he))~~ they expect((s)) to begin ~~((final))~~ closure

of a ~~((facility with only))~~ treatment or storage tank~~((s))~~, container storage, or incinerator unit~~((s to be closed))~~, or final closure of a facility with such a unit.

(ii) The date when he "expects to begin closure" must be either:

(A) No later than thirty days after the date on which any dangerous waste management unit receives the known final volume of dangerous wastes or, if there is a reasonable possibility that the dangerous waste management unit will receive additional dangerous wastes, no later than one year after the date on which the unit received the most recent volume of dangerous waste. If the owner or operator of a dangerous waste management unit can demonstrate to the department that the dangerous waste management unit or facility has the capacity to receive additional dangerous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the department may approve an extension to this one-year limit; or

(B) For units meeting the requirements of subsection (4)(d) of this section, no later than thirty days after the date on which the dangerous waste management unit receives the known final volume of nondangerous wastes, or if there is a reasonable possibility that the dangerous waste management unit will receive additional nondangerous wastes, no later than one year after the date on which the unit received the most recent volume of nondangerous wastes. If the owner or operator can demonstrate to the department that the dangerous waste management unit has the capacity to receive additional nondangerous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the department may approve an extension to this one-year limit.

(iii) If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or final order to cease receiving dangerous wastes or to close, then the requirements of (c) of this subsection do not apply. However, the owner or operator must close the facility in accordance with the deadlines established in subsection (4) of this section.

(iv) Removal of wastes and decontamination or dismantling of equipment. Nothing in this subsection will preclude the owner or operator from removing dangerous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

(4) Closure; time allowed for closure.

(a) Within ninety days after receiving the final volume of dangerous wastes, or the final volume of nondangerous wastes if the owner or operator complies with all applicable requirements in (d) and (e) of this subsection, at a dangerous waste management unit or facility, the owner or operator must treat, remove from the unit or facility, or dispose of on site, all dangerous wastes in accordance with the approved closure plan. The department may approve a longer period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment, includ-

ing compliance with all applicable permit requirements, and either:

(i) The activities required to comply with this paragraph will, of necessity, take longer than ninety days to complete; or

(ii)(A) The dangerous waste management unit or facility has the capacity to receive additional dangerous wastes, or has the capacity to receive nondangerous wastes if the owner or operator complies with (d) and (e) of this subsection;

(B) There is a reasonable likelihood that he or another person will recommence operation of the dangerous waste management unit or the facility within one year; and

(C) Closure of the dangerous waste management unit or facility would be incompatible with continued operation of the site.

(b) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within one hundred eighty days after receiving the final volume of dangerous wastes, or the final volume of nondangerous wastes if the owner or operator complies with all applicable requirements in (d) and (e) of this subsection, at the dangerous waste management unit or facility. The department may approve an extension to the closure period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating dangerous waste management unit or facility, including compliance with all applicable permit requirements, and either:

(i) The partial or final closure activities will, of necessity, take longer than one hundred eighty days to complete; or

(ii)(A) The dangerous waste management unit or facility has the capacity to receive additional dangerous wastes, or has the capacity to receive nondangerous wastes if the owner or operator complies with (d) and (e) of this subsection;

(B) There is reasonable likelihood that he or another person will recommence operation of the dangerous waste management unit or the facility within one year; and

(C) Closure of the dangerous waste management unit or facility would be incompatible with continued operation of the site.

(c) The demonstrations referred to in (a)(i) and (b)(i) of this subsection must be made as follows: The demonstrations in (a)(i) of this subsection must be made at least thirty days prior to the expiration of the specified ninety-day period; and the demonstration in (b)(i) of this subsection must be made at least thirty days prior to the expiration of the specified one hundred eighty-day period unless the owner or operator is otherwise subject to the deadlines in (d) of this subsection.

(d) The department may allow an owner or operator to receive only nondangerous wastes in a landfill, land treatment, or surface impoundment unit after the final receipt of dangerous wastes at that unit if:

(i) The owner or operator requests a permit modification in compliance with all applicable requirements in WAC 173-303-830 and 40 CFR Part 124 and in the permit modification request demonstrates that:

(A) The unit has the existing design capacity as indicated on the part A application to receive nondangerous wastes; and

(B) There is a reasonable likelihood that the owner or operator or another person will receive nondangerous wastes in the unit within one year after the final receipt of dangerous wastes; and

(C) The nondangerous wastes will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility under this part; and

(D) Closure of the dangerous waste management unit would be incompatible with continued operation of the unit or facility; and

(E) The owner or operator is operating and will continue to operate in compliance with all applicable permit requirements; and

(ii) The request to modify the permit includes an amended wastes analysis plan, ground water monitoring and response program, human exposure assessment required under RCRA section 3019, and closure and post-closure plan, and updated cost estimates and demonstrations of financial assurance for closure and post-closure care as necessary and appropriate, to reflect any changes due to the presence of dangerous constituents in the nondangerous wastes, and changes in closure activities, including the expected year of closure if applicable under subsection (3)(a)(viii) of this section, as a result of the receipt of nondangerous wastes following the final receipt of dangerous wastes; and

(iii) The request to modify the permit includes revisions, as necessary and appropriate, to affected conditions of the permit to account for the receipt of nondangerous wastes following receipt of the final volume of dangerous wastes; and

(iv) The request to modify the permit and the demonstration referred to in (d)(i) and (ii) of this subsection are submitted to the department no later than one hundred twenty days prior to the date on which the owner or operator of the facility receives the known final volume of dangerous wastes at the unit, or no later than ninety days after the effective date of this rule in the state in which the unit is located, whichever is later.

(e) In addition to the requirements in (d) of this subsection, an owner or operator of a dangerous wastes surface impoundment that is not in compliance with the liner and leachate collection system requirements in 42 U.S.C. 3004 (o)(1) and 3005 (j)(1) or 42 U.S.C. 3004 (o)(2) or (3) or 3005 (j)(2), (3), (4) or (13) must:

(i) Submit with the request to modify the permit:

(A) A contingent corrective measures plan, unless a corrective action plan has already been submitted under WAC 173-303-645(10); and

(B) A plan for removing dangerous wastes in compliance with (e)(ii) of this subsection; and

(ii) Remove all dangerous wastes from the unit by removing all dangerous liquids, and removing all dangerous sludges to the extent practicable without impairing the integrity of the liner(s), if any.

(iii) Removal of dangerous wastes must be completed no later than ninety days after the final receipt of dangerous wastes. The department may approve an extension to this

deadline if the owner or operator demonstrates that the removal of dangerous wastes will, of necessity, take longer than the allotted period to complete and that an extension will not pose a threat to human health and the environment.

(iv) If a release that is a statistically significant increase (or decrease in the case of pH) over background values for detection monitoring parameters of constituents specified in the permit or that exceeds the facility's ground water protection standard at the point of compliance, if applicable, is detected in accordance with the requirements in WAC 173-303-645, the owner or operator of the unit:

(A) Must implement corrective measures in accordance with the approved contingent corrective measures plan required by (e)(i) of this subsection no later than one year after detection of the release, or approval of the contingent corrective measures plan, whichever is later;

(B) May continue to receive wastes at the unit following detection of the release only if the approved corrective measures plan includes a demonstration that continued receipt of wastes will not impede corrective action; and

(C) May be required by the department to implement corrective measures in less than one year or to cease the receipt of wastes until corrective measures have been implemented if necessary to protect human health and the environment.

(v) During the period of corrective action, the owner or operator must provide semiannual reports to the department that describe the progress of the corrective action program, compile all ground water monitoring data, and evaluate the effect of the continued receipt of nondangerous wastes on the effectiveness of the corrective action.

(vi) The department may require the owner or operator to commence closure of the unit if the owner or operator fails to implement corrective action measures in accordance with the approved contingent corrective measures plan within one year as required in (e)(iv) of this subsection, or fails to make substantial progress in implementing corrective action and achieving the facility's ground water protection standard or background levels if the facility has not yet established a ground water protection standard.

(vii) If the owner or operator fails to implement corrective measures as required in (e)(iv) of this subsection or if the department determines that substantial progress has not been made pursuant to (e)(vi) of this subsection the department will:

(A) Notify the owner or operator in writing that the owner or operator must begin closure in accordance with the deadline in (a) and (b) of this subsection and provide a detailed statement of reasons for this determination; and

(B) Provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the decision no later than twenty days after the date of the notice.

(C) If the department receives no written comments, the decision will become final five days after the close of the comment period. The department will notify the owner or operator that the decision is final, and that a revised closure plan, if necessary, must be submitted within fifteen days of the final notice and that closure must begin in accordance with the deadlines in (a) and (b) of this subsection.

(D) If the department receives written comments on the decision, it will make a final decision within thirty days after the end of the comment period, and provide the owner or operator in writing and the public through a newspaper notice, a detailed statement of reasons for the final decision. If the department determines that substantial progress has not been made, closure must be initiated in accordance with the deadlines in (a) and (b) of this subsection.

(E) The final determinations made by the department under (e)(vii)(C) and (D) of this subsection are not subject to administrative appeal.

(5) Disposal or decontamination of equipment, structures and soils. During the partial and final closure periods, all contaminated equipment, structures and soils must be properly disposed of or decontaminated unless otherwise specified in WAC 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), or under the authority of WAC 173-303-680 (2) and (4). By removing any dangerous wastes or dangerous constituents during partial and final closure, the owner or operator may become a generator of dangerous waste and must handle that waste in accordance with all applicable requirements of WAC 173-303-170 through 173-303-230.

(6) Certification of closure. Within sixty days of completion of closure of each dangerous waste management unit (including tank systems and container storage areas), and within sixty days of the completion of final closure, the owner or operator must submit to the department by registered mail, a certification that the dangerous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the department upon request until it releases the owner or operator from the financial assurance requirements for closure under WAC 173-303-620(4).

(7) Post-closure care and use of property.

(a) Post-closure care for each dangerous waste management unit subject to post-closure requirements must begin after completion of closure of the unit and continue for thirty years after that date and must consist of at least the following:

(i) Ground water monitoring and reporting as required by WAC 173-303-645, 173-303-650, 173-303-655, 173-303-660, 173-303-665, and 173-303-680; and

(ii) Maintenance and monitoring of waste containment systems as applicable.

(b) Any time preceding partial closure of a dangerous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure period for a particular unit, the department may, in accordance with the permit modification procedures in WAC 173-303-800 through 173-303-840:

(i) Shorten the post-closure care period applicable to the dangerous waste management unit, or facility, if all disposal units have been closed, if it finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or ground water monitoring results, characteristics of the dangerous waste, application of advanced technology,

or alternative disposal, treatment, or reuse techniques indicate that the dangerous waste management unit or facility is secure); or

(ii) Extend the post-closure care period applicable to the dangerous waste management unit or facility if it finds that the extended period is necessary to protect human health and the environment (e.g., leachate or ground water monitoring results indicate a potential for migration of dangerous waste at levels which may be harmful to human health and the environment).

(c) The department may require, at partial or final closure, continuation of any of the security requirements of WAC 173-303-310 during part or all of the post-closure period when:

(i) Dangerous wastes may remain exposed after completion of partial or final closure; or

(ii) Access by the public or domestic livestock may pose a hazard to human health.

(d) Post-closure use of property on or in which dangerous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the department finds that the disturbance:

(i) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(ii) Is necessary to reduce a threat to human health or the environment.

(e) All post-closure care activities must be in accordance with the provisions of the approved post-closure plan as specified in subsection (8) of this section.

(8) Post-closure plan; amendment of plan.

(a) The owner or operator of a dangerous waste disposal unit must have a written post-closure plan. In addition, certain surface impoundments and certain piles from which the owner or operator intends to remove or decontaminate the dangerous wastes at partial or final closure are required by WAC 173-303-650 and 173-303-660, respectively, to have written contingent post-closure plans. Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent post-closure plans under WAC 173-303-650 or 173-303-660 must submit a post-closure plan to the department within ninety days from the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the post-closure requirements. The plan must be submitted with the permit application, in accordance with WAC 173-303-806, and approved by the department as part of the permit issuance procedures under WAC 173-303-840. The approved post-closure plan will become a condition of any permit issued.

(b) For each dangerous waste management unit subject to the requirements of this subsection, the post-closure plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:

(i) A description of the planned ground water monitoring activities and frequencies at which they will be performed;

(ii) A description of the planned maintenance activities, and frequencies at which they will be performed to comply

with WAC 173-303-645, 173-303-650, 173-303-655, 173-303-660, 173-303-665, and 173-303-680 during the post-closure care period, to ensure:

(A) The integrity of the cap and final cover or other containment structures in accordance with the requirements of 173-303-645, 173-303-650, 173-303-655, 173-303-660, 173-303-665, and 173-303-680; and

(B) The function of the facility monitoring equipment;

(iii) The name, address, and phone number of the person or office to contact about the dangerous waste disposal unit or facility during the post-closure care period;

(iv) And, for facilities where the director has applied alternative requirements under subsection (1)(d) of this section, WAC 173-303-645 (1)(e) or 173-303-620 (8)(d), the post-closure plan must include either the alternative requirements or a reference to the enforceable document that contains the alternative requirements.

(c) Until final closure of the facility, a copy of the approved post-closure plan must be furnished to the department upon request, including request by mail. After final closure has been certified, the person or office specified in (b)(iii) of this subsection must keep the approved post-closure plan during the remainder of the post-closure period.

(d) Amendment of plan. The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved post-closure plan in accordance with the applicable requirements of WAC 173-303-800 through 173-303-840. The written notification or request must include a copy of the amended post-closure plan for review or approval by the department.

(i) The owner or operator may submit a written notification or request to the department for a permit modification to amend the post-closure plan at any time during the active life of the facility or during the post-closure care period.

(ii) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved post-closure plan whenever:

(A) Changes in operating plans or facility design affect the approved post-closure plan; or

(B) There is a change in the expected year of final closure, if applicable; or

(C) Events which occur during the active life of the facility, including partial and final closures, affect the approved post-closure plan; or

(D) The owner/operator requests the director apply alternative requirements under subsection (1)(d) of this section, WAC 173-303-645 (1)(e), or 173-303-620 (8)(d).

(iii) The owner or operator must submit a written request for a permit modification at least sixty days prior to the proposed change in facility design or operation, or no later than sixty days after an unexpected event has occurred which has affected the post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all dangerous waste at closure and is not otherwise required to submit a contingent post-closure plan under WAC 173-303-650 or 173-303-660 must submit a post-closure plan to the department no later than ninety days after the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the requirements of WAC 173-303-665. The depart-

ment will approve, disapprove, or modify this plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The approved post-closure plan will become a permit condition.

(iv) The department may request modifications to the plan under the conditions described in (d)(ii) of this subsection. The owner or operator must submit the modified plan no later than sixty days after the department's request, or no later than ninety days if the unit is a surface impoundment or waste pile not previously required to prepare a contingent post-closure plan. Any modifications requested by the department will be approved, disapproved, or modified in accordance with the procedures in WAC 173-303-800 through 173-303-840.

(9) Notice to local land authority. No later than the submission of the certification of closure of each dangerous waste disposal unit, the owner or operator of a disposal facility must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department a survey plat indicating the location and dimensions of landfill cells or other dangerous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the dangerous waste disposal unit in accordance with the applicable requirements of this section. In addition, no later than sixty days after certification of closure of each dangerous waste disposal unit, the owner or operator must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department, a record of the type, location, and quantity of dangerous wastes disposed of within each cell or other disposal unit of the facility. For wastes disposed of before November 19, 1980 (March 12, 1982, for facilities subject to this chapter but not subject to 40 CFR Part 264), the owner or operator must identify the type, location, and quantity of the dangerous wastes to the best of his knowledge and in accordance with any records he has kept.

(10) Notice in deed to property.

(a) No later than sixty days after certification of closure of each dangerous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the department a record of the type, location, and quantity of dangerous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes (as defined in WAC 173-303-040) disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the dangerous wastes to the best of his knowledge and in accordance with any records he has kept.

(b) Within sixty days of certification of closure of the first dangerous waste disposal unit and within sixty days of certification of closure of the last dangerous waste disposal unit, the owner or operator must:

(i) Record, in accordance with state law, a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:

(A) The land has been used to manage dangerous wastes;

(B) Its use is restricted under this section; and

(C) The survey plat and record of the type, location, and quantity of dangerous wastes disposed of within each cell or other dangerous waste disposal unit of the facility required in subsection (9) of this section have been filed with the local zoning authority, or the authority with jurisdiction over local land use, and with the department; and

(i) Submit a certification, signed by the owner or operator, that he has recorded the notation specified in (b)(i) of this subsection, including a copy of the document in which the notation has been placed, to the department.

(c) If the owner or operator or any subsequent owner of the land upon which a dangerous waste facility was located wishes to remove dangerous wastes and dangerous waste residues, the liner, if any, or contaminated soils, he must request a modification to the post-closure permit in accordance with the applicable requirements in WAC 173-303-800 through 173-303-840. The owner or operator must demonstrate that the removal of dangerous wastes will satisfy the criteria of subsection (7)(d) of this section. By removing dangerous waste, the owner or operator may become a generator of dangerous waste and must manage it in accordance with all applicable requirements of this chapter. If he is granted a permit modification or otherwise granted approval to conduct such removal activities, the owner or operator may request that the department approve either:

(i) The removal of the notation on the deed to the facility property or other instrument normally examined during title search; or

(ii) The addition of a notation to the deed or instrument indicating the removal of the dangerous waste.

(11) Certification of completion of post-closure care. No later than sixty days after completion of the established post-closure care period for each dangerous waste disposal unit, the owner or operator must submit to the department, by registered mail, a certification that the post-closure care period for the dangerous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the department upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under WAC 173-303-620(6).

(12) The owner or operator of an off-site recycling facility subject to regulation under WAC 173-303-120 (3), (4), or used oil processor or rerefiner subject to WAC 173-303-515(9) must have a written closure plan.

(a) Submittal. For new facilities, the closure plan must be submitted with the notification required under WAC 173-303-060. For existing facilities, the closure plan must be submitted within one hundred eighty days of the effective date of this regulation.

(b) Review by department. Decision to approve or deny. Closure plans must be submitted to department for review, comment, approval or denial. The department decision to approve a closure plan must assure it is consistent with requirements in subsections (2) and (12) of this section. The

department decision to deny a closure plan must be justified on the inability or unwillingness of the owner and operator to meet requirements in subsections (2) and (12) of this section or WAC 173-303-620 (1)(e). The department's decision may be appealed under the provisions of WAC 173-303-845.

(c) Availability. A copy of the approved closure plan and all updates to the plan must be maintained at the facility and furnished to the department upon request, including request by mail, until final closure is completed and certified in accordance with subsection (6) of this section.

(d) Contents of plan. The closure plan must identify steps necessary to perform final closure of the facility at any point during its active life. The closure plan must include at least: (i) An estimate of the maximum inventory of dangerous wastes or used oil ever on-site over the active life of the facility;

(ii) Descriptions, schedules, and disposal or decontamination procedures in subsections (3), (4), (5), (6) of this section, except any provisions dealing with permits, permit applications, modifications or approvals. The term "recycling unit" will replace the terms "dangerous waste management unit" or "regulated unit" in these subsections. Any references to permits or permit modifications in these subsections do not apply.

(e) Obligation to amend. At least sixty days prior to a major change at an off-site recycling or used oil processor/rerefining facility, the owners/operator of that facility must submit an amended closure plan. A major change may include the addition of a recycling or recovery process that is subject to WAC 173-303-120 (3) or (4), any increase in the maximum inventory of dangerous waste or used oil described in the previously approved closure plan, the closure of an existing resource reclamation unit, or a change in ownership or operational control. The department must approve or deny, with justification, the revised closure plan.

(f) Notification of closure. At least forty-five days prior to closure, an owner/operator must provide written notice to department of intent to close.

(g) Relationship to closure plans for permitted facilities. A facility owner/operator that is subject to permitting and closure planning requirements for storage, treatment or disposal that is also required to prepare a closure plan for off-site recycling or used oil processing/rerefining, may satisfy the requirements of this subsection by combining all closure requirements in a single closure plan.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-620 Financial requirements. (1) Applicability.

(a) The requirements of subsections (3), (4), (7), (8), (9), and (10) of this section, apply to owners and operators of all dangerous waste facilities, except as provided otherwise in this section.

(b) The requirements of subsections (5) and (6) of this section apply to owners and operators of:

(i) Dangerous waste disposal facilities;

(ii) Tank systems that are required under WAC 173-303-640(8) to meet the requirements of landfills;

(iii) Miscellaneous units as specified in WAC 173-303-680(4);

(iv) Waste piles and surface impoundments to the extent that WAC 173-303-650 and 173-303-660, respectively, require that such facilities comply with this section; and

(v) Containment buildings that are required under WAC 173-303-695 to meet the requirements for landfills.

(c) States and the federal government are exempt from the requirements of this section. Operators of state or federally owned facilities are exempt from the requirements of this section, except subsections (3) and (5) of this section. Operators of facilities who are under contract with (but not owned by) the state or federal government must meet all of the requirements of this section.

(d) The director may, in an enforceable document, replace all or part of the requirements of this section with alternative requirements for financial assurance when he or she:

(i) Applies alternative requirements for ground water monitoring, closure or post-closure under WAC 173-303-610 (1)(d) or 173-303-645 (1)(e); and

(ii) Determines that it is not necessary to apply the requirements of this section because the alternative requirements will protect human health and the environment.

(e) The requirements of subsections (3), (4), (8), (9) and (10) of this section, apply to owners and operators of off-site recycling facilities and processors/rerefiners of used oil, except the term "recycling unit" will replace the terms "dangerous waste management unit" or "regulated unit."

(i) If the closure plan for an off-site recycling or used oil processing/rerefining facility has not been approved by the department within one year of submittal to the department, the department may determine the closure cost estimate and direct the facility to establish financial assurance in that amount. Note that the schedule for partially funded trust funds for existing facilities of WAC 173-303-620 (4)(c)(i) may apply.

(ii) Relationship to closure cost estimates and financial responsibility for permitted facilities. A facility owner/operator that is subject to closure cost estimating and financial responsibility requirements for dangerous waste management units and resource reclamation unit may choose to consolidate those requirements into a single mechanism for submittal to the department.

(2) Definitions. As used in this section, the following listed or referenced terms have the meanings given below:

(a) "Closure plan" means the plan for closure prepared in accordance with the requirements of WAC 173-303-610(3);

(b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (3) of this section;

(c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (5) of this section;

(d) "Parent corporation" means a corporation which directly owns at least fifty percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation;

(e) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of WAC 173-303-610 (7), (8), (9), and (10);

(f) "Regional administrator" means the department;

(g) "Hazardous waste" means dangerous waste; and

(h) The additional terms listed and defined in 40 CFR 264.141 (f), (g), and (h) are incorporated by reference.

(3) Cost estimate for facility closure.

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in WAC 173-303-610 (2) through (6), and applicable closure requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), 173-303-680 (2) through (4) and 173-303-695. The closure cost estimate:

(i) Must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see WAC 173-303-610 (3)(a));

(ii) Must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in subsection (2)(d) of this section.) The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility;

(iii) May not incorporate any salvage value that may be realized with the sale of dangerous wastes, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure; and

(iv) May not incorporate a zero cost for dangerous wastes, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), that might have economic value.

(b) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than thirty days after the department has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in (c)(i) and (ii) of this subsection.

(c) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with this section. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before submission of updated information to the department as specified in subsection (4) of this section. The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent *Implicit Price Deflator for Gross National Product or Gross Domestic Product* as published by the United States Department of Commerce in its survey of current business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest closure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted closure cost estimate.

(4) Financial assurance for facility closure.

(a) An owner or operator of a TSD, or off-site recycling or used oil processing/rerefining facility must establish financial assurance for closure of the facility. The owner or operator must choose from the following options or combination of options:

(i) Closure trust fund;

(ii) Surety bond guaranteeing payment into a closure trust fund;

(iii) ~~((Surety bond guaranteeing performance of closure; (+)))~~ Closure letter of credit;

~~((+))~~ (iv) Closure insurance; or

~~((+))~~ (v) Financial test and corporate guarantee for closure.

(b) In satisfying the requirements of financial assurance for facility closure in this subsection, the owner or operator must meet all the requirements for the mechanisms listed above as set forth in 40 CFR 264.143 which are incorporated by reference. If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state.

(c) 40 CFR 264.143 is modified by the following requirements:

(i) Partially funded trust funds of 264.143 (a)(3) may not be accepted as a mechanism for a closure trust fund for TSDs. Owners and operators of existing recycling units that become subject to this section may establish a partially funded closure trust fund with a pay-in period of three years. The fund must be fully funded no later than three years (and the first, second and third payments due no later than one, two and three year(s) respectively) after the date of the department's approval of the closure plan under WAC 173-303-610 (12)(b);

(ii) Financial or insurance institutions may not be used that are owned solely, or held in majority ownership, by the parent company of the TSD, off-site recycling or used oil processing facility seeking financial assurance;

(iii) Insurance companies providing closure coverage must have a current rating of financial strength of:

(A) AAA, AA, A as rated by Standard and Poor's;

(B) Aaa, Aa, A as rated by Moody's; or

(C) A++, A+, A, A-, as rated by A.M. Best;

(iv) Ecology must be named as the beneficiary on an insurance policy;

(v) Facility owners/operators requesting the use of the financial test and corporate guarantee must meet a minimum tangible net worth criterion of twenty million dollars.

(d) Owners and operators of off-site recycling facilities regulated under WAC 173-303-120 (3) or (4), or used oil processing/rerefining facilities regulated under WAC 173-303-515(9), must demonstrate financial assurance for closure of the facility or resource reclamation units. In addition to the requirements of 40 CFR 264.143, as amended by this subsection, the financial assurance must meet the following requirements:

(i) For existing facilities choosing a surety bond, letter of credit, insurance, financial test or corporate guarantee, the mechanism must be established within thirty-six months of the effective date of this section;

(ii) Owners and operators of existing facilities choosing a partially funded trust fund mechanism must establish a fully funded trust fund within thirty-six months of approval of the closure plan by the department (see (c)(i) of this subsection);

(iv) For new facilities, be established and submitted to the department at least sixty days prior to the acceptance of the first shipment of wastes.

(5) Cost estimate for post-closure monitoring and maintenance.

(a) The owner or operator of a facility subject to post-closure monitoring or maintenance requirements must have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in WAC 173-303-610 (7) through (10), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-680(4). The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in subsection (2)(d) of this section.) The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required by WAC 173-303-610.

(b) During the active life of the facility, the owner or operator must revise the post-closure cost estimate within thirty days after the department has approved the request to modify the post-closure plan, if the change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in (c)(i) and (ii) of this subsection.

(c) During the active life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with subsection (6) of this section. For owners or operators using the financial test or corporate guarantee, the post-closure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before the submission of updated information to the department as specified in subsection (6) of this section. The adjustment may be made by recalculating the post-closure cost estimate in current dollars or by using an inflation factor derived from the most recent *Implicit Price Deflator for Gross National*

Product or Gross Domestic Product as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest postclosure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted post-closure cost estimate.

(6) Financial assurance for post-closure monitoring and maintenance.

(a) An owner or operator of a facility subject to post-closure monitoring or maintenance requirements must establish financial assurance for post-closure care in accordance with the approved post-closure care plan. He must choose from the following options or combination of options:

(i) Post-closure trust fund, except that the use of partially funded trust funds, as provided in 40 CFR 264.145(a), will not be allowed by the department;

(ii) Surety bond guaranteeing payment into a post-closure trust fund;

~~(iii) ((Surety bond guaranteeing performance of post-closure care;~~

~~((+)) Post-closure letter of credit;~~

~~((+)) (iv) Post-closure insurance; however, financial or insurance institutions providing such insurance may not;~~

~~(A) Be owned solely, or held in majority ownership, by the parent company of the TSD seeking financial assurance; and~~

~~(B) Must have a current rating of financial strength of:~~

~~(I) AAA, AA, A as rated by Standard and Poor's;~~

~~(II) Aaa, Aa, A as rated by Moody's; or~~

~~(III) A++, A+, A, A-, as rated by A.M. Best; or~~

~~Financial test and corporate guarantee for post-closure care; or~~

~~((+)) (v) Financial test and corporate guarantee for post-closure care, except that the criterion for minimum tangible net worth in 40 CFR 264.145(e) must be in an amount of at least twenty million dollars.~~

(b) In satisfying the requirements of financial assurance for facility post-closure care in this subsection, the owner or operator must meet all the requirements set forth in 40 CFR 264.145 which are incorporated by reference. If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state.

(7) Use of a mechanism for financial assurance of both closure and post-closure care. An owner or operator may satisfy the requirements for financial assurance for both closure and post-closure care for one or more facilities by using a

trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both 40 CFR 264.143 and 264.145 which are incorporated by reference. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of postclosure care.

(8) Liability requirements.

(a) An owner or operator of a TSD facility, off-site recycling or used oil processing/refining facility, or a group of such facilities must demonstrate financial responsibility for bodily injury and property damages to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(a) which is incorporated by reference, with the following additional requirements:

(i) Financial or insurance institutions may not be used that are owned solely, or held in majority ownership, by the parent company of the TSD, off-site recycling or used oil processing facility seeking financial assurance coverage;

(ii) Insurance companies providing liability coverage must have a current rating of financial strength of:

(A) AAA, AA, A as rated by Standard and Poor's;

(B) Aaa, Aa, A as rated by Moody's; or

(C) A++, A+, A, A-, as rated by A.M. Best;

(iii) The department may file claims against liability insurance when contamination occurs as a result of releases or discharges of dangerous wastes or used oil from recycling units subject to regulation under this section to waters of the state as defined under chapter 90.48 RCW;

(iv) facility owners/operators requesting the use of the financial test and corporate guarantee must meet a minimum tangible net worth criterion of twenty million dollars.

(b) An owner or operator of a facility with a regulated unit or units (as defined in WAC 173-303-040) or a disposal miscellaneous unit or units used to manage dangerous waste or a group of such facilities must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(b), 264.147 (f), (g), (h), (i), and (j) which are incorporated by reference.

(c) Request for variance. If an owner or operator can demonstrate to the satisfaction of the department that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain a variance from the department. The request for a variance must be submitted to the department as part of the application under WAC 173-303-806(4) for a facility that does not have a permit, or pursuant to the procedures for permit modification under WAC 173-303-830 for a facility that has a permit. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the

facility or group of facilities. The department may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the department to determine a level of financial responsibility other than that required by (a) or (b) of this subsection. Any request for a variance for a permitted facility will be treated as a request for a permit modification under WAC 173-303-830.

(d) Adjustments by the department. If the department determines that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the department may adjust the level of financial responsibility required under (a) or (b) of this subsection as may be necessary to protect human health and the environment. This adjusted level will be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the department determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that has no regulated units (as defined in WAC 173-303-040), it may require that the owner or operator of the facility comply with (b) of this subsection. An owner or operator must furnish to the department within a reasonable time, any information which the department requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustments of level or type of coverage for a facility that has a permit will be treated as a permit modification under WAC 173-303-830.

(e) Period of coverage. An owner or operator must continuously provide liability coverage for a facility as required by this subsection until certifications of closure of the facility, as specified in WAC 173-303-610(6), are received by the department.

(f) The following subsections are incorporated by reference: 40 CFR section 264.147(f), Financial test for liability coverage, (g) Guarantee for liability coverage, (h) Letter of credit for liability coverage, (i) Surety bond for liability coverage, and (j) Trust fund for liability coverage.

(9) Incapacity of owners or operators, guarantor or financial institutions.

(a) An owner or operator must notify the department by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code, naming the owner or operator as debtor, within ten days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 40 CFR 264.143(f) and 264.145(f) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (40 CFR 264.151(h)).

(b) An owner or operator who fulfills the requirements of 40 CFR 264.143, 264.145, or 264.147 (a) or (b) by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insur-

ance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within sixty days after such an event.

(10) Wording of the instruments. The financial instruments required by this section must contain the wording specified by 40 CFR 264.151 which is incorporated by reference, except that:

(a) The words "regional administrator" and "environmental protection agency" must be replaced with the words "Washington state department of ecology";

(b) The words "hazardous waste" must be replaced with the words "dangerous waste";

(c) Any other words specified by the department must be changed as necessary to assure financial responsibility of the facility in accordance with the requirements of this section; and

(d) Whenever 40 CFR 264.151 requires that owners and operators notify several regional administrators of their financial obligations, the owner or operator must notify both the department and all regional administrators of regions that are affected by the owner or operator's financial assurance mechanisms.

Copies of the financial instruments with the appropriate word changes will be available from the department by June 30, 1984.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-630 Use and management of containers. (1) Applicability. The regulations in this section apply to owners and operators of all dangerous waste facilities that store containers of dangerous waste.

(2) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the owner or operator must transfer the dangerous waste from the container to a container that is in good condition or manage the waste in some other way that complies with the requirements of chapter 173-303 WAC. In addition, the owner or operator must address leaks and spills in accordance with the applicable provisions of WAC 173-303-145 and 173-303-360.

(3) Identification of containers. The owner or operator must label containers in a manner which adequately identifies the major risk(s) associated with the contents of the containers for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate). The owner or operator must affix labels upon transfer of dangerous wastes from one container to another. The owner or operator must destroy or otherwise remove labels from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility. The owner or operator must ensure that labels are not obscured, removed, or otherwise unreadable in the course of inspection required under WAC 173-303-320.

(4) Compatibility of waste with containers. The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with,

the dangerous waste to be stored, so that the ability of the container to contain the waste is not impaired.

(5) Management of containers.

(a) A container holding dangerous waste must always be closed, except when it is necessary to add or remove waste.

(b) A container holding dangerous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(c) A minimum thirty-inch separation is required between aisles of containers holding dangerous waste(s). A row of drums must be no more than two drums wide.

(6) Inspections. At least weekly, the owner or operator must inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors. The owner or operator must keep an inspection log including at least the date and time of the inspection, the printed name and the handwritten signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection.

(7) Containment.

(a) Container storage areas must have a containment system that is capable of collecting and holding spills and leaks. In addition to the necessary leak containment capacity, uncovered storage areas must be capable of holding the additional volume that would result from the precipitation of a maximum twenty-five year storm of twenty-four hours duration. The containment system must:

(i) Have a base underlying the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated rainfall until the collected material is detected and removed. The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(ii) Be designed for positive drainage control (such as a locked drainage valve) to prevent release of contaminated liquids and so that uncontaminated precipitation can be drained promptly for convenience of operation. Spilled or leaked waste and accumulated precipitation must be removed from the containment system in as timely a manner as is necessary to prevent overflow; and

(iii) Have sufficient capacity to contain ten percent of the volume of all containers or the volume of the largest container, whichever is greater. Only containers holding free liquids, or holding wastes designated as F020, F021, F022, F023, F026, or F027 need to be considered in this determination.

(b) Run-on into the containment system must be prevented, unless the department waives this requirement in the permit after determining that the collection system has sufficient excess capacity in addition to that required in (a)(iii) of this subsection to accommodate any run-on which might enter the system.

(c) Storage areas that store containers holding only wastes that do not contain free liquids, do not exhibit either the characteristic of ignitability or reactivity as described in WAC 173-303-090 (5) or (7), and are not designated as F020,

F021, F022, F023, F026, or F027, need not have a containment system as described in this subsection: Provided, That:

(i) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

(ii) The containers are elevated or are otherwise protected from contact with accumulated liquids.

(d) The department may require generators to protect their containers from the elements by means of a building or other protective covering if the department determines that such protection is necessary to prevent a release of waste or waste constituents due to the nature of the waste or design of the container. The building or other protective covering must allow adequate inspection under subsection (6) of this section.

(8) Special requirements for ignitable or reactive waste.

(a) Containers holding reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi), (vii) or (viii) must be stored in a manner equivalent to the ((Uniform Fire Code's "American Table of Distances for Storage of Explosives," Table 77-201, 1997 edition)) International Fire Code's "American Table of Distances for Storage of Explosives" Table 3304.5.2(2) or "Table of Separation Distances for Low Explosives" Table 3304.5.2(3), 2003 edition, or the version adopted by the local fire district.

(b) The owner or operator must design, operate, and maintain ignitable waste and reactive waste (other than a reactive waste which must meet (a) of this subsection) container storage in a manner equivalent with the ((Uniform)) International Fire Code. Where no specific standard or requirements are specified in the ((Uniform)) International Fire Code, or in existing state or local fire codes, applicable sections of the NFPA Pamphlet #30, "Flammable and Combustible Liquids Code," must be used. The owner/operator must also comply with the requirements of WAC 173-303-395 (1)(d).

(9) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same container, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(c) A storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. Containment systems for incompatible wastes must be separate.

(10) Closure. At closure, all dangerous waste and dangerous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soil containing or contaminated with dangerous waste or dangerous waste residues must be decontaminated or removed.

(11) Air emission standards. The owner or operator must manage all hazardous waste placed in a container in accordance with the applicable requirements of 40 CFR Subparts AA, BB, and CC, which are incorporated by reference at WAC 173-303-690 through 173-303-692.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-640 Tank systems. (1) Applicability.

(a) The regulations in WAC 173-303-640 apply to owners and operators of facilities that use tank systems to treat or store dangerous waste, except as (b), (c), and (d) of this subsection provides otherwise.

(b) Tank systems that are used to store or treat dangerous waste which contain no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in subsection (4) of this section. To demonstrate the absence or presence of free liquids in the stored/treated waste, the test method described in WAC 173-303-110 (3)(a) must be used.

(c) Tank systems, including sumps, as defined in WAC 173-303-040, that serve as part of a secondary containment system to collect or contain releases of dangerous wastes are exempted from the requirements in subsection (4)(a) of this section.

(d) Tanks, sumps, and other such collection devices or systems used in conjunction with drip pads, as defined in WAC 173-303-040 and regulated under WAC 173-303-675, must meet the requirements of this section.

(2) Assessment of existing tank system's integrity.

(a) For each existing tank system, the owner or operator must determine that the tank system is not leaking or is unfit for use. Except as provided in (b) of this subsection, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified registered professional engineer, in accordance with WAC 173-303-810 (13)(a), that attests to the tank system's integrity by January 12, 1988, for underground tanks that do not meet the requirements of subsection (4) of this section and that cannot be entered for inspection, or by January 12, 1990, for all other tank systems.

(b) Tank systems that store or treat materials that become dangerous wastes subsequent to January 12, 1989, must conduct this assessment within twelve months after the date that the waste becomes a dangerous waste.

(c) This assessment must determine that the tank system is adequately designed and has sufficient structural strength and compatibility with the waste(s) to be stored or treated, to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

(i) Design standard(s), if available, according to which the tank system was constructed;

(ii) Dangerous characteristics of the waste(s) that have been and will be handled;

(iii) Existing corrosion protection measures;

(iv) Documented age of the tank system, if available (otherwise, an estimate of the age); and

(v) Results of a leak test, internal inspection, or other tank system integrity examination such that:

(A) For nonenterable underground tanks, the assessment must include a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pockets, and high water table effects; and

(B) For other than nonenterable underground tanks and for ancillary equipment, this assessment must include either a leak test, as described above, or other integrity examination,

that is certified by an independent, qualified, registered professional engineer, in accordance with WAC 173-303-810 (13)(a), that addresses cracks, leaks, corrosion, and erosion.

Note: ((The practices described in the American Petroleum Institute (API) Publication, Guide for Inspection of Refinery Equipment, Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981-) Three publications may be used, where applicable, as guidelines in conducting other than a leak test: Tank Inspection, Repair, Alteration, and Reconstruction, API Standard 653, Addendum 4 issued in December 1999; Guidance for Assessing and Certifying Tank Systems that Store and Treat Dangerous Waste, Ecology Publication No. 94-114; and Steel Tank Institute publication #SP001-00 Standard for Inspection of In-Service Shop Fabricated Aboveground Tanks for Storage of Combustible and Flammable Liquids copyright 2000.

(d) If, as a result of the assessment conducted in accordance with (a) of this subsection, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of subsection (7) of this section.

(e) The owner or operator must develop a schedule for conducting integrity assessments over the life of the tank to ensure that the tank retains its structural integrity and will not collapse, rupture, or fail. The schedule must be based on the results of past integrity assessments, age of the tank system, materials of construction, characteristics of the waste, and any other relevant factors.

(3) Design and installation of new tank systems or components.

(a) Owners or operators of new tank systems or components must obtain (and for facilities that are pursuing or have obtained a final status permit, submit to the department, at time of submittal of Part B information) a written assessment, reviewed and certified by an independent, qualified registered professional engineer, in accordance with WAC 173-303-810 (13)(a), attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of dangerous waste. The assessment must show that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. This assessment (which will be used by the department to review and approve or disapprove the acceptability of the tank system design at facilities which are pursuing or have obtained a final status permit) must include, at a minimum, the following information:

(i) Design standard(s) according to which tank system(s) are constructed;

(ii) Dangerous characteristics of the waste(s) to be handled;

(iii) For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system will be in contact with the soil or with water, a determination by a corrosion expert of:

(A) Factors affecting the potential for corrosion, including but not limited to:

(I) Soil moisture content;

(II) Soil pH;

(III) Soil sulfides level;

(IV) Soil resistivity;

PROPOSED

- (V) Structure to soil potential;
- (VI) Influence of nearby underground metal structures (e.g., piping);
- (VII) Existence of stray electric current;
- (VIII) Existing corrosion-protection measures (e.g., coating, cathodic protection); and

(B) The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:

(I) Corrosion-resistant materials of construction such as special alloys, fiberglass reinforced plastic, etc.;

(II) Corrosion-resistant coating (such as epoxy, fiberglass, etc.) with cathodic protection (e.g., impressed current or sacrificial anodes); and

(III) Electrical isolation devices such as insulating joints, flanges, etc.

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in providing corrosion protection for tank systems.

(iv) For underground tank system components that are likely to be adversely affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

(v) Design considerations to ensure that:

(A) Tank foundations will maintain the load of a full tank;

(B) Tank systems will be anchored to prevent flotation or dislodgment where the tank system is either placed in a saturated zone, or is located less than five hundred feet from a fault which has had displacement in Holocene times; and

(C) Tank systems will withstand the effects of frost heave.

(b) The owner or operator must develop a schedule for conducting integrity assessments over the life of the tank to ensure that the tank retains its structural integrity and will not collapse, rupture or fail. The schedule must be based on the results of past integrity assessments, age of the tank system, materials of construction, characteristics of the waste, and any other relevant factors.

(c) The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified, registered professional engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of any of the following items:

- (i) Weld breaks;
- (ii) Punctures;
- (iii) Scrapes of protective coatings;
- (iv) Cracks;
- (v) Corrosion;

(vi) Other structural damage or inadequate construction/installation.

All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.

(d) New tank systems or components that are placed underground and that are backfilled must be provided with a backfill material that is a noncorrosive, porous, homogeneous substance and that is installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.

(e) All new tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed, or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leak(s) in the system must be performed prior to the tank system being covered, enclosed, or placed into use.

(f) Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

Note: The piping system installation procedures described in American Petroleum Institute (API) Publication 1615 (November 1979), "Installation of Underground Petroleum Storage Systems," or ANSI Standard B31.3, "Petroleum Refinery Piping," and ANSI Standard B31.4 "Liquid Petroleum Transportation Piping System," may be used, where applicable, as guidelines for proper installation of piping systems.

(g) The owner or operator must provide the type and degree of corrosion protection recommended by an independent corrosion expert, based on the information provided under (a)(iii) of this subsection, or other corrosion protection if the department believes other corrosion protection is necessary to ensure the integrity of the tank system during use of the tank system. The installation of a corrosion protection system that is field fabricated must be supervised by an independent corrosion expert to ensure proper installation.

(h) The owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of (b) through (g) of this subsection, that attest that the tank system was properly designed and installed and that repairs, pursuant to (c) and (e) of this subsection, were performed. These written statements must also include the certification statement as required in WAC 173-303-810 (13)(a).

(4) Containment and detection of releases.

(a) In order to prevent the release of dangerous waste or dangerous constituents to the environment, secondary containment that meets the requirements of this subsection must be provided (except as provided in (f) and (g) of this subsection):

(i) For all new tank systems or components, prior to their being put into service;

(ii) For all existing tank systems used to store or treat Dangerous Waste Nos. F020, F021, F022, F023, F026, and F027, within two years after January 12, 1989;

(iii) For those existing tank systems of known and documented age, within two years after January 12, 1989, or when the tank system has reached fifteen years of age, whichever comes later;

(iv) For those existing tank systems for which the age cannot be documented, within eight years of January 12, 1989; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches fifteen years of age, or within two years of January 12, 1989, whichever comes later; and

(v) For tank systems that store or treat materials that become dangerous wastes subsequent to January 12, 1989, within the time intervals required in (a)(i) through (iv) of this subsection, except that the date that a material becomes a dangerous waste must be used in place of January 12, 1989.

(b) Secondary containment systems must be:

(i) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system; and

(ii) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

(c) To meet the requirements of (b) of this subsection, secondary containment systems must be at a minimum:

(i) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, and the stress of daily operations (including stresses from nearby vehicular traffic);

(ii) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;

(iii) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of dangerous waste or accumulated liquid in the secondary containment system within twenty-four hours, or at the earliest practicable time if the owner or operator can demonstrate to the department that existing detection technologies or site conditions will not allow detection of a release within twenty-four hours; and

(iv) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within twenty-four hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator can demonstrate to the department that removal of the released waste or accumulated precipitation cannot be accomplished within twenty-four hours.

Note: If the collected material is a dangerous waste under WAC 173-303-070, it is subject to management as a dangerous waste in accordance with all applicable requirements of WAC 173-303-170 through 173-303-400 and WAC 173-303-600 through 173-303-695. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of sections 301, 304, and 402 of the Clean Water Act, as amended. If discharged to a publicly owned treatment works (POTW), it is subject to the requirements of section 307 of the Clean Water Act, as amended. If

the collected material is released to the environment, it may be subject to the reporting requirements of 40 CFR Part 302.

(d) Secondary containment for tanks must include one or more of the following devices:

(i) A liner (external to the tank);

(ii) A vault;

(iii) A double-walled tank; or

(iv) An equivalent device as approved by the department.

(e) In addition to the requirements of (b), (c), and (d) of this subsection, secondary containment systems must satisfy the following requirements:

(i) External liner systems must be:

(A) Designed or operated to contain one hundred percent of the capacity of the largest tank within its boundary;

(B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event.

(C) Free of cracks or gaps; and

(D) Designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the waste).

(ii) Vault systems must be:

(A) Designed or operated to contain one hundred percent of the capacity of the largest tank within its boundary;

(B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event;

(C) Constructed with chemical-resistant water stops in place at all joints (if any);

(D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

(E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

(I) Meets the definition of ignitable waste under WAC 173-303-090(5); or

(II) Meets the definition of reactive waste under WAC 173-303-090(7), and may form an ignitable or explosive vapor.

(F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

(iii) Double-walled tanks must be:

(A) Designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;

(B) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

(C) Provided with a built-in continuous leak detection system capable of detecting a release within twenty-four hours, or at the earliest practicable time, if the owner or operator can demonstrate to the department, and the department concludes, that the existing detection technology or site conditions would not allow detection of a release within twenty-four hours.

Note: The provisions outlined in the Steel Tank Institute's (STI) "Standard for Dual Wall Underground Steel Storage Tanks" may be used as guidelines for aspects of the design of underground steel double-walled tanks.

(f) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of (b) and (c) of this subsection except for:

(i) Aboveground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;

(ii) Welded flanges, welded joints, and welded connections, that are visually inspected for leaks on a daily basis;

(iii) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

(iv) Pressurized aboveground piping systems with automatic shutoff devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shutoff devices) that are visually inspected for leaks on a daily basis.

(g) The owner or operator may obtain a variance from the requirements of this subsection if the department finds, as a result of a demonstration by the owner or operator that alternative design and operating practices, together with location characteristics, will prevent the migration of any dangerous waste or dangerous constituents into the ground water, or surface water at least as effectively as secondary containment during the active life of the tank system or that in the event of a release that does migrate to ground water or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not, per a demonstration in accordance with (g)(ii) of this subsection, be exempted from the secondary containment requirements of this section.

(i) In deciding whether to grant a variance based on a demonstration of equivalent protection of ground water and surface water, the department will consider:

(A) The nature and quantity of the wastes;

(B) The proposed alternate design and operation;

(C) The hydrogeologic setting of the facility, including the thickness of soils present between the tank system and ground water; and

(D) All other factors that would influence the quality and mobility of the dangerous constituents and the potential for them to migrate to ground water or surface water.

(ii) In deciding whether to grant a variance based on a demonstration of no substantial present or potential hazard, the department will consider:

(A) The potential adverse effects on ground water, surface water, and land quality taking into account:

(I) The physical and chemical characteristics of the waste in the tank system, including its potential for migration;

(II) The hydrogeological characteristics of the facility and surrounding land;

(III) The potential for health risks caused by human exposure to waste constituents;

(IV) The potential for damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(V) The persistence and permanence of the potential adverse effects.

(B) The potential adverse effects of a release on ground water quality, taking into account:

(I) The quantity and quality of ground water and the direction of ground water flow;

(II) The proximity and withdrawal rates of ground water users;

(III) The current and future uses of ground water in the area; and

(IV) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water quality.

(C) The potential adverse effects of a release on surface water quality, taking into account:

(I) The quantity and quality of ground water and the direction of ground water flow;

(II) The patterns of rainfall in the region;

(III) The proximity of the tank system to surface waters;

(IV) The current and future uses of surface waters in the area and any water quality standards established for those surface waters; and

(V) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface-water quality.

(D) The potential adverse effects of a release on the land surrounding the tank system, taking into account:

(I) The patterns of rainfall in the region; and

(II) The current and future uses of the surrounding land.

(iii) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of (g)(i) of this subsection, at which a release of dangerous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:

(A) Comply with the requirements of subsection (7) of this section, except subsection (7)(d) of this section; and

(B) Decontaminate or remove contaminated soil to the extent necessary to:

(I) Enable the tank system for which the variance was granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had prior to the release; and

(II) Prevent the migration of dangerous waste or dangerous constituents to ground water or surface water.

(C) If contaminated soil cannot be removed or decontaminated in accordance with (g)(iii)(B) of this subsection, comply with the requirements of subsection (8) of this section.

(iv) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of (g)(i) of this subsection, at which a release of dangerous waste has occurred from the

primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

(A) Comply with the requirements of subsection (7)(a), (b), (c), and (d) of this section; and

(B) Prevent the migration of dangerous waste or dangerous constituents to ground water or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed or if ground water has been contaminated, the owner or operator must comply with the requirements of subsection (8)(b) of this section; and

(C) If repairing, replacing, or reinstalling the tank system, provide secondary containment in accordance with the requirements of (a) through (f) of this subsection or reapply for a variance from secondary containment and meet the requirements for new tank systems in subsection (3) of this section if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed and ground water or surface water has not been contaminated.

(h) The following procedures must be followed in order to request a variance from secondary containment:

(i) The department must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in (g) of this subsection according to the following schedule:

(A) For existing tank systems, at least twenty-four months prior to the date that secondary containment must be provided in accordance with (a) of this subsection.

(B) For new tank systems, at least thirty days prior to entering into a contract for installation.

(ii) As part of the notification, the owner or operator must also submit to the department a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in (g)(i) or (ii) of this subsection;

(iii) The demonstration for a variance must be completed within one hundred eighty days after notifying the department of an intent to conduct the demonstration; and

(iv) If a variance is granted under this subsection, the department will require the permittee to construct and operate the tank system in the manner that was demonstrated to meet the requirements for the variance.

(i) All tank systems, until such time as secondary containment that meets the requirements of this section is provided, must comply with the following:

(A) For nonenterable underground tanks, a leak test that meets the requirements of subsection (2)(c)(v) of this section or other tank integrity method, as approved or required by the department, must be conducted at least annually.

(B) For other than nonenterable underground tanks, the owner or operator must either conduct a leak test as in (i)(A) of this subsection or develop a schedule and procedure for an assessment of the overall condition of the tank system by an independent, qualified registered professional engineer. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored

waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous inspection, and the characteristics of the waste being stored or treated.

(C) For ancillary equipment, a leak test or other integrity assessment as approved by the department must be conducted at least annually.

Note: ~~((The practices described in the American Petroleum Institute (API) Publication Guide for Inspection of Refinery Equipment, Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981.))~~ Three publications may be used, where applicable, as guidelines for assessing the overall condition of the tank system: Tank Inspection, Repair, Alteration, and Reconstruction, API Standard 653, Addendum 4 issued in December 1999; Guidance for Assessing and Certifying Tank Systems that Store and Treat Dangerous Waste, Ecology Publication No. 94-114; and Steel Tank Institute publication #SP001-00 Standard for Inspection of In-Service Shop Fabricated Aboveground Tanks for Storage of Combustible and Flammable Liquids copyright 2000.

(D) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with (h)(iv)(A) through (C) of this subsection.

(E) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in (h)(iv)(A) through (C) of this subsection, the owner or operator must comply with the requirements of subsection (7) of this section.

(5) General operating requirements.

(a) Dangerous wastes or treatment reagents must not be placed in a tank system if they could cause the tank, its ancillary equipment, or the containment system to rupture, leak, corrode, or otherwise fail.

(b) The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or containment systems. These include at a minimum:

(i) Spill prevention controls (e.g., check valves, dry disconnect couplings);

(ii) Overfill prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and

(iii) Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

(c) The owner or operator must comply with the requirements of subsection (7) of this section if a leak or spill occurs in the tank system.

(d) All tank systems holding dangerous waste must be marked with labels or signs to identify the waste contained in the tank. The label or sign must be legible at a distance of at least fifty feet, and must bear a legend which identifies the waste in a manner which adequately warns employees, emergency response personnel, and the public of the major risk(s) associated with the waste being stored or treated in the tank system(s). (Note—If there already is a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate.)

(e) All tank systems holding dangerous wastes which are acutely or chronically toxic by inhalation must be designed to prevent escape of vapors, fumes, or other emissions into the air.

(6) Inspections.

(a) The owner or operator must develop and follow a schedule and procedure for inspecting overflow controls.

(b) The owner or operator must inspect at least once each operating day:

(i) Aboveground portions of the tank system, if any, to detect corrosion or releases of waste;

(ii) Data gathered from monitoring any leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design; and

(iii) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of dangerous waste (e.g., wet spots, dead vegetation).

Note: WAC 173-303-320 requires the owner or operator to remedy any deterioration or malfunction he finds. Subsection (7) of this section requires the owner or operator to notify the department within twenty-four hours of confirming a leak. Also, 40 CFR Part 302 may require the owner or operator to notify the National Response Center of a release.

(c) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(i) The proper operation of the cathodic protection system must be confirmed within six months after initial installation and annually thereafter; and

(ii) All sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.

(d) The owner or operator must document in the operating record of the facility an inspection of those items in (a) through (c) of this subsection. The owner or operator must keep an inspection log including at least the date and time of the inspection, the printed name and the handwritten signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection.

(7) Response to leaks or spills and disposition of leaking or unfit-for-use tank systems.

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements:

(a) Cessation of use; prevent flow or addition of wastes. The owner or operator must immediately stop the flow of

dangerous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.

(b) Removal of waste from tank system or secondary containment system.

(i) If the release was from the tank system, the owner/operator must, within twenty-four hours after detection of the leak or, if the owner/operator demonstrates that it is not possible, at the earliest practicable time, remove as much of the waste as is necessary to prevent further release of dangerous waste to the environment and to allow inspection and repair of the tank system to be performed.

(ii) If the material released was to a secondary containment system, all released materials must be removed within twenty-four hours or in as timely a manner as is possible to prevent harm to human health and the environment.

(c) Containment of visible releases to the environment. The owner/operator must immediately conduct a visual inspection of the release and, based upon that inspection:

(i) Prevent further migration of the leak or spill to soils or surface water; and

(ii) Remove, and properly dispose of, any visible contamination of the soil or surface water.

(d) Notifications, reports.

(i) Any release to the environment (~~(, except as provided in (d)(ii) of this subsection,)~~) must be reported to the department (~~(within twenty-four hours of its detection))~~ and other authorities immediately in accordance with WAC 173-303-145. Any release above the "reportable quantity" must also be reported to the National Response Center pursuant to 40 CFR Part 302.

(ii) (~~(A leak or spill of dangerous waste is exempted from the requirements of (d) of this subsection if it is:~~

~~(A) Less than or equal to a quantity of one pound, or the "Reportable Quantity" (RQ) established in 40 CFR Part 302, whichever is less; and~~

~~(B) Immediately contained and cleaned up.~~

~~(iii))~~ Within thirty days (or fifteen days if classified as an emergency) of detection of a release to the environment, a report containing the following information must be submitted to the department:

(A) Likely route of migration of the release;

(B) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);

(C) Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within thirty days, these data must be submitted to the department as soon as they become available;

(D) Proximity to downgradient drinking water, surface water, and populated areas; and

(E) Description of response actions taken or planned.

(F) In the event of an emergency, additional information as required by WAC 173-303-360.

(e) Provision of secondary containment, repair, or closure.

(i) Unless the owner/operator satisfies the requirements of (e)(ii) through (iv) of this subsection, the tank system must be closed in accordance with subsection (8) of this section.

(ii) If the cause of the release was a spill that has not damaged the integrity of the system, the owner/operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

(iii) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.

(iv) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner/operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of subsection (4) of this section before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of (f) of this subsection are satisfied. If a component is replaced to comply with the requirements of this subitem, that component must satisfy the requirements for new tank systems or components in subsections (3) and (4) of this section. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank), the entire component must be provided with secondary containment in accordance with subsection (4) of this section prior to being returned to use.

(f) Certification of major repairs. If the owner/operator has repaired a tank system in accordance with (e) of this subsection, and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified, registered, professional engineer in accordance with WAC 173-303-810 (13)(a) that the repaired system is capable of handling dangerous wastes without release for the intended life of the system. This certification must be submitted to the department within seven days after returning the tank system to use.

Note: See WAC 173-303-320 for the requirements necessary to remedy a failure. Also, 40 CFR Part 302 may require the owner or operator to notify the National Response Center of certain releases.

(8) Closure and post-closure care.

(a) At closure of a tank system, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as dangerous waste, unless WAC 173-303-070 (2)(a) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements specified in WAC 173-303-610 and 173-303-620.

(b) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in (a) of this subsection, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care

requirements that apply to landfills (see WAC 173-303-665(6)). In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator must meet all of the requirements for landfills specified in WAC 173-303-610 and 173-303-620.

(c) If an owner or operator has a tank system that does not have secondary containment that meets the requirements of subsection (4)(b) through (f) of this section and is not exempt from the secondary containment requirements in accordance with subsection (4)(g) of this section, then:

(i) The closure plan for the tank system must include both a plan for complying with (a) of this subsection and a contingent plan for complying with (b) of this subsection.

(ii) A contingent post-closure plan for complying with (b) of this subsection must be prepared and submitted as part of the permit application.

(iii) The cost estimates calculated for closure and post-closure care must reflect the costs of complying with the contingent closure plan and the contingent post-closure plan, if those costs are greater than the costs of complying with the closure plan prepared for the expected closure under (a) of this subsection.

(iv) Financial assurance must be based on the cost estimates in (c)(iii) of this subsection.

(v) For the purposes of the contingent closure and post-closure plans, such a tank system is considered to be a landfill, and the contingent plans must meet all of the closure, post-closure, and financial responsibility requirements for landfills under this chapter (WAC 173-303-610 and 173-303-620).

(9) Special requirements for ignitable or reactive wastes.

(a) Ignitable or reactive waste must not be placed in tank systems unless:

(i) The waste is treated, rendered, or mixed before or immediately after placement in the tank system so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090, and 173-303-395 (1)(b) is complied with; or

(ii) The waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react; or

(iii) The tank system is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in tanks must locate the tanks in a manner equivalent to the National Fire Protection Association's buffer zone requirements for tanks, contained in Tables 2-1 through 2-6 of the NFPA-30 *Flammable and Combustible Liquids Code* -1981, or as required by state and local fire codes when such codes are more stringent. The owner or operator must also comply with the requirements of WAC 173-303-395 (1)(d).

(10) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank system, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in a tank system that has not been decontaminated and that previously held an

incompatible waste or material, unless WAC 173-303-395 (1)(b) is complied with.

(11) Air emission standards. The owner or operator must manage all hazardous waste placed in a tank in accordance with the applicable requirements of 40 CFR Subparts AA, BB, and CC, which are incorporated by reference at WAC 173-303-690 through 173-303-692.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-645 Releases from regulated units. (1) Applicability.

(a)(i) Except as provided in (b) of this subsection, the regulations in this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste. The owner or operator must satisfy the requirements identified in (a)(ii) of this subsection for all wastes (or constituents thereof) contained in solid waste management units at the facility, regardless of the time at which waste was placed in such units.

(ii) All solid waste management units must comply with the requirements in WAC (~~(173-303-646(2))~~) 173-303-64620. Regulated units (as defined in WAC 173-303-040) must comply with the requirements of subsections (2) through (12) of this section, in lieu of WAC (~~(173-303-646(2))~~) 173-303-64620, for purposes of detecting, characterizing, and responding to releases to the uppermost aquifer. The corrective action financial responsibility requirements of WAC (~~(173-303-646(2))~~) 173-303-64620 apply to corrective action regulated units.

(b) The owner or operator's regulated unit or units are not subject to regulation for releases into the uppermost aquifer under this section if:

(i) The owner or operator is exempted under WAC 173-303-600; or

(ii) He operates a unit which the department finds:

(A) Is an engineered structure;

(B) Does not receive or contain liquid waste or waste containing free liquids;

(C) Is designed and operated to exclude liquid, precipitation, and other run-on and runoff;

(D) Has both inner and outer layers of containment enclosing the waste;

(E) Has a leak detection system built into each containment layer;

(F) The owner or operator will provide continuing operation and maintenance of these leak detection systems during the active life of the unit and the closure and post-closure care periods; and

(G) To a reasonable degree of certainty, will not allow dangerous constituents to migrate beyond the outer containment layer prior to the end of the post-closure care period.

(iii) The department finds, pursuant to WAC 173-303-655 (8)(d), that the treatment zone of a land treatment unit does not contain levels of dangerous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of WAC 173-303-655(6) has not shown a statistically significant increase

in dangerous constituents below the treatment zone during the operating life of the unit. An exemption under this subsection can only relieve an owner or operator of responsibility to meet the requirements of this section during the post-closure care period; or

(iv) The department finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the post-closure care period. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made under this subsection on assumptions that maximize the rate of liquid migration.

(c) The regulations under this section apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the regulations in this section:

(i) Do not apply if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure in accordance with the removal or decontamination limits specified in WAC 173-303-610 (2)(b);

(ii) Apply during the post-closure care period if the owner or operator is conducting a detection monitoring program under subsection (9) of this section; and

(iii) Apply during the compliance period under subsection (7) of this section, if the owner or operator is conducting a compliance monitoring program under subsection (10) of this section, or a corrective action program under subsection (11) of this section.

(d) Regulations in this section may apply to miscellaneous units when necessary to comply with WAC 173-303-680 (2) through (4).

(e) The director may, in an enforceable document, replace all or part of the requirements of this section with alternative requirements for ground water monitoring and corrective action when he or she determines:

(i) A dangerous waste unit is situated among other solid waste management units or areas of concern, a release has occurred, and both the dangerous waste unit and one or more of the solid waste management units or areas of concern are likely to have contributed to the release; and

(ii) It is not necessary to apply the requirements of this section because the alternative requirements will protect human health and the environment.

(2) Required programs.

(a) Owners and operators subject to this section must conduct a monitoring and response program as follows:

(i) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit are detected at the compliance point under subsection (6) of this section, the owner or operator must institute a compliance monitoring program under subsection (10) of this section. Detected is defined as statistically significant evidence of contamination as described in subsection (9)(f) of this section;

(ii) Whenever the ground water protection standard under subsection (3) of this section, is exceeded, the owner or operator must institute a corrective action program under

subsection (11) of this section. Exceeded is defined as statistically significant evidence of increased contamination as described in subsection (10)(h) of this section. Exceeded is defined as statistically significant evidence of contamination as described in WAC 173-303-645 (10)(d);

(iii) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section and the downgradient facility property boundary, the owner or operator must institute a corrective action program under subsection (11) of this section; and

(iv) In all other cases, the owner or operator must institute a detection monitoring program under subsection (9) of this section.

(b) The department will specify in the facility permit the specific elements of the monitoring and response program. The department may include one or more of the programs identified in (a) of this subsection, in the facility permit as may be necessary to protect human health and the environment and will specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the department will consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

(3) Ground water protection standard. The owner or operator must comply with conditions specified in the facility permit that are designed to ensure that dangerous constituents under subsection (4) of this section, detected in the ground water from a regulated unit do not exceed the concentration limits under subsection (5) of this section, in the uppermost aquifer underlying the waste management area beyond the point of compliance under subsection (6) of this section, during the compliance period under subsection (7) of this section. To the extent practical, the department will establish this ground water protection standard in the facility permit at the time the permit is issued. If the department determines that an established standard is not protective enough, or if the department decides that it is not practical to establish standards at the time of permit issuance, the department will establish the ground water protection standard in the facility permit when dangerous constituents have been detected in the ground water from a regulated unit.

(4) Dangerous constituents.

(a) The department will specify in the facility permit the dangerous constituents to which the ground water protection standard of subsection (3) of this section, applies. Dangerous constituents are constituents identified in 40 CFR Part 264 Appendix IX, which is adopted by reference (this list is available from the department), and any other constituents not listed there which have caused a waste to be regulated under this chapter, that may be or have been detected in ground water in the uppermost aquifer underlying a regulated unit and that are reasonably expected to be in or derived from waste contained in a regulated unit, unless the department has excluded them under (b) of this subsection.

The department may also specify in the permit indicator parameters (e.g., specific conductance, pH, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents or reaction products as identified in the detection monitoring program under subsection (9)(a) of this section, that provide a reliable indication of the presence of dangerous constituents in the ground water.

(b) The department will exclude a 40 CFR Part 264 Appendix IX, or other identified constituent from the list of dangerous constituents specified in the facility permit if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the department will consider the following:

(i) Potential adverse effects on ground water quality, considering:

(A) The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of ground water and the direction of ground water flow;

(D) The proximity and withdrawal rates of ground water users;

(E) The current and future uses of ground water in the area;

(F) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(I) The persistence and permanence of the potential adverse effects;

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering:

(A) The volume and physical and chemical characteristics of the waste in the regulated unit;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of ground water, and the direction of ground water flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the regulated unit to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects; and

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(iii) Any identification of underground sources of drinking water and exempted aquifers made pursuant to chapter 90.48 RCW, chapter 270, Laws of 1983, and other applicable state laws and regulations.

(5) Concentration limits.

(a) The department will specify in the facility permit concentration limits in the ground water for dangerous constituents established under subsection (4) of this section. The concentration of a dangerous constituent:

(i) Must not exceed the background level of that constituent in the ground water at the time that limit is specified in the permit; or

(ii) For any of the constituents listed in Table 1 of this subsection, must not exceed the respective value given in that table if the background level of the constituent is below the value given in Table 1; or

(iii) Must not exceed an alternate limit established by the department under (b) of this subsection.

Table 1.
Maximum Concentration of Constituents
for Ground Water Protection

Constituent	Maximum Concentration ¹
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin	0.0002
Lindane	0.004
Methoxychlor	0.1
Toxaphene	0.005
2,4-D	0.1m
2,4,5-TP Silvex	0.01

¹Milligrams per liter.

(b) The department will establish an alternate concentration limit for a dangerous constituent if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the department will consider the same factors listed in subsection (4)(b)(i) through (iii) of this section.

(6) Point of compliance.

(a) The department will specify in the facility permit the point of compliance at which the ground water protection standard of subsection (3) of this section, applies and at which monitoring must be conducted. The point of compliance is a vertical surface located at the hydraulically down-gradient limit of the waste management area that extends down into the uppermost aquifer underlying the regulated units. Alternatively, the point of compliance may be any closer points identified by the department at the time the permit is issued, considering the risks of the facility, the wastes and constituents managed there, the potential for waste constituents to have already migrated past the alternate compliance point, and the potential threats to ground and surface waters.

(b) The waste management area is the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit. If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

(7) Compliance period.

(a) The department will specify in the facility permit the compliance period during which the ground water protection standard of subsection (3) of this section applies. The compliance period is the number of years equal to the active life of the waste management area (including any waste management activity prior to permitting, and the closure period).

(b) The compliance period begins when the owner or operator initiates a compliance monitoring program meeting the requirements of subsection (10) of this section.

(c) If the owner or operator is engaged in a corrective action program at the end of the compliance period specified in (a) of this subsection, the compliance period is extended until the owner or operator can demonstrate that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(8) General ground water monitoring requirements.

The owner or operator must comply with the requirements of this subsection for any ground water monitoring program developed to satisfy subsections (9), (10), or (11) of this section.

(a) The ground water monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that:

(i) Represent the quality of background water that has not been affected by leakage from a regulated unit;

(A) A determination of background quality may include sampling of wells that are not hydraulically upgradient of the waste management area where:

(I) Hydrogeologic conditions do not allow the owner or operator to determine what wells are hydraulically upgradient; and

(II) Sampling at other wells will provide an indication of background ground water quality that is representative or more representative than that provided by the upgradient wells; and

(ii) Represent the quality of ground water passing the point of compliance.

(iii) Allow for the detection of contamination when dangerous waste or dangerous constituents have migrated from the waste management area to the uppermost aquifer.

(b) If a facility contains more than one regulated unit, separate ground water monitoring systems are not required for each regulated unit, provided that provisions for sampling the ground water in the uppermost aquifer will enable detection and measurement at the compliance point of dangerous constituents from the regulated units that have entered the ground water in the uppermost aquifer.

(c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata. Wells must meet the requirements set forth in Parts 1 and 3 of chapter 173-160 WAC, "Minimum standards for construction and maintenance of wells."

(d) The ground water monitoring program must include at a minimum, procedures and techniques for:

- (i) Decontamination of drilling and sampling equipment;
- (ii) Sample collection;
- (iii) Sample preservation and shipment;
- (iv) Analytical procedures and quality assurance; and
- (v) Chain of custody control.

(e) The ground water monitoring program must include consistent sampling and analytical methods that ensure reliable ground water sampling, accurately measure dangerous constituents and indicator parameters in ground water samples, and provide a reliable indication of ground water quality below the waste management area.

(f) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(g) In detection monitoring or where appropriate in compliance monitoring, data on each dangerous constituent specified in the permit will be collected from background wells and wells at the compliance point(s). The number and kinds of samples collected to establish background must be appropriate for the form of statistical test employed, following generally accepted statistical principles. The sample size must be as large as necessary to ensure with reasonable confidence that a contaminant release to ground water from a facility will be detected. The owner or operator will determine an appropriate sampling procedure and interval for each hazardous constituent listed in the facility permit which will be specified in the unit permit upon approval by the department. This sampling procedure will be:

(i) A sequence of at least four samples, taken at an interval that assures, to the greatest extent technically feasible, that an independent sample is obtained, by reference to the uppermost aquifer's effective porosity, hydraulic conductivity and hydraulic gradient, and the fate and transport characteristics of the potential contaminants; or

(ii) An alternate sampling procedure proposed by the owner or operator and approved by the department.

(h) The owner or operator will specify one of the following statistical methods to be used in evaluating ground water monitoring data for each hazardous constituent which, upon approval by the department, will be specified in the unit permit. The statistical test chosen must be conducted separately for each dangerous constituent in each well. Where practical quantification limits (pql's) are used in any of the following statistical procedures to comply with (i)(v) of this subsection, the pql must be proposed by the owner or operator and approved by the department. Use of any of the following statistical methods must be protective of human health and the environment and must comply with the performance standards outlined in (i) of this subsection.

(i) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

(ii) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

(iii) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

(iv) A control chart approach that gives control limits for each constituent.

(v) Another statistical test method submitted by the owner or operator and approved by the department.

(i) Any statistical method chosen under (h) of this subsection for specification in the unit permit must comply with the following performance standards, as appropriate:

(i) The statistical method used to evaluate ground water monitoring data must be appropriate for the distribution of chemical parameters or dangerous constituents. If the distribution of the chemical parameters or dangerous constituents is shown by the owner or operator to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.

(ii) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a ground water protection standard, the test must be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment wise error rate for each testing period must be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

(iii) If a control chart approach is used to evaluate ground water monitoring data, the specific type of control chart and its associated parameter values must be proposed

by the owner or operator and approved by the department if it finds it to be protective of human health and the environment.

(iv) If a tolerance interval or a prediction interval is used to evaluate ground water monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, must be proposed by the owner or operator and approved by the department if it finds these parameters to be protective of human health and the environment. These parameters will be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

(v) The statistical method must account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantification limit (pql) approved by the department under (h) of this subsection that is used in the statistical method must be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

(vi) If necessary, the statistical method must include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

(j) Ground water monitoring data collected in accordance with (g) of this subsection including actual levels of constituents must be maintained in the facility operating record. The department will specify in the permit when the data must be submitted for review.

(9) Detection monitoring program. An owner or operator required to establish a detection monitoring program under this subsection must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor for indicator parameters (e.g., pH, specific conductance, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents, or reaction products that provide a reliable indication of the presence of dangerous constituents in ground water. The department will specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:

(i) The types, quantities, and concentrations of constituents in wastes managed at the regulated unit;

(ii) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the waste management area;

(iii) The detectability of indicator parameters, waste constituents, and reaction products in ground water; and

(iv) The concentrations or values and coefficients of variation of proposed monitoring parameters or constituents in the ground water background.

(b) The owner or operator must install a ground water monitoring system at the compliance point, as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The owner or operator must conduct a ground water monitoring program for each chemical parameter and dangerous constituent specified in the permit pursuant to (a) of this subsection in accordance with subsection (8)(g) of this sec-

tion. The owner or operator must maintain a record of ground water analytical data as measured and in a form necessary for the determination of statistical significance under subsection (8)(h) of this section.

(d) The department will specify the frequencies for collecting samples and conducting statistical tests to determine whether there is statistically significant evidence of contamination for any parameter or dangerous constituent specified in the permit under (a) of this subsection in accordance with subsection (8)(g) of this section. A sequence of at least four samples from each well (background and compliance wells) must be collected at least semiannually during detection monitoring.

(e) The owner or operator must determine the ground water flow rate and direction in the uppermost aquifer at least annually.

(f) The owner or operator must determine whether there is statistically significant evidence of contamination for any chemical parameter of dangerous constituent specified in the permit pursuant to (a) of this subsection at a frequency specified under (d) of this subsection.

(i) In determining whether statistically significant evidence of contamination exists, the owner or operator must use the method(s) specified in the permit under subsection (8)(h) of this section. These method(s) must compare data collected at the compliance point(s) to the background ground water quality data.

(ii) The owner or operator must determine whether there is statistically significant evidence of contamination at each monitoring well as the compliance point within a reasonable period of time after completion of sampling. The department will specify in the facility permit what period of time is reasonable after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(g) If the owner or operator determines pursuant to (f) of this subsection that there is statistically significant evidence of contamination for chemical parameters or dangerous constituents specified pursuant to (a) of this subsection at any monitoring well at the compliance point, he or she must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what chemical parameters or dangerous constituents have shown statistically significant evidence of contamination:

(ii) Immediately sample the ground water in all monitoring wells and determine whether constituents in the list of Appendix IX of 40 CFR Part 264 (which is adopted by reference) are present, and if so, in what concentration.

(iii) For any Appendix IX compounds found in the analysis pursuant to (g)(ii) of this subsection, the owner or operator may resample within one month and repeat the analysis for those compounds detected. If the results of the second analysis confirm the initial results, then these constituents will form the basis for compliance monitoring. If the owner or operator does not resample for the compounds found pursuant to (g)(ii) of this subsection, the dangerous constituents found during this initial Appendix IX analysis will form the basis for compliance monitoring.

(iv) Within ninety days, submit to the department an application for a permit modification to establish a compli-

ance monitoring program meeting the requirements of subsection (10) of this section. The application must include the following information:

(A) An identification of the concentration or any Appendix IX constituent detected in the ground water at each monitoring well at the compliance point;

(B) Any proposed changes to the ground water monitoring system at the facility necessary to meet the requirements of subsection (10) of this section;

(C) Any proposed additions or changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical methods used at the facility necessary to meet the requirements of subsection (10) of this section;

(D) For each dangerous constituent detected at the compliance point, a proposed concentration limit under subsection (5)(a)(i) or (ii) of this section, or a notice of intent to seek an alternate concentration limit under subsection (5)(b) of this section; and

(v) Within one hundred eighty days, submit to the department:

(A) All data necessary to justify an alternate concentration limit sought under subsection (5)(b) of this section; and

(B) An engineering feasibility plan for a corrective action program necessary to meet the requirement of subsection (11) of this section unless:

(I) All dangerous constituents identified under (g)(ii) of this subsection are listed in Table I of subsection (5) of this section and their concentrations do not exceed the respective values given in that Table; or

(II) The owner or operator has sought an alternate concentration limit under subsection (5)(b) of this section for every dangerous constituent identified under (g)(ii) of this subsection.

(vi) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant difference for chemical parameters or dangerous constituents specified pursuant to (a) of this subsection at any monitoring well at the compliance point, he or she may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. The owner operator may make a demonstration under this subsection in addition to, or in lieu of, submitting a permit modification application under (g)(iv) of this subsection; however, the owner or operator is not relieved of the requirement to submit a permit modification application within the time specified in (g)(iv) of this subsection unless the demonstration made under this subsection successfully shows that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(A) Notify the department in writing within seven days of determining statistically significant evidence of contamination at the compliance point that he intends to make a demonstration under this subsection;

(B) Within ninety days, submit a report to the department which demonstrates that a source other than a regulated unit caused the contamination or that the contamination resulted from error in sampling, analysis, or evaluation;

(C) Within ninety days, submit to the department an application for a permit modification to make any appropriate changes to the detection monitoring program facility; and

(D) Continue to monitor in accordance with the detection monitoring program established under this section.

(h) If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of this section, he or she must, within ninety days, submit an application for a permit modification to make any appropriate changes to the program.

(10) Compliance monitoring program. An owner or operator required to establish a compliance monitoring program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor the ground water to determine whether regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must install a ground water monitoring system at the compliance point as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The department will specify the sampling procedures and statistical methods appropriate for the constituents and the facility, consistent with subsection (8)(g) and (h) of this section.

(i) The owner or operator must conduct a sampling program for each chemical parameter or dangerous constituent in accordance with subsection (8)(g) of this section.

(ii) The owner or operator must record ground water analytical data as measured and in form necessary for the determination of statistical significance under subsection (8)(h) of this section for the compliance period of the facility.

(d) The owner or operator must determine whether there is statistically significant evidence of increased contamination for any chemical parameter or dangerous constituent specified in the permit, pursuant to (a) of this subsection, at a frequency specified under (f) of this subsection.

(i) In determining whether statistically significant evidence of increased contamination exists, the owner or operator must use the method(s) specified in the permit under subsection (8)(h) of this section. The method(s) must compare data collected at the compliance point(s) to a concentration limit developed in accordance with subsection (5) of this section.

(ii) The owner or operator must determine whether there is statistically significant evidence of increased contamination at each monitoring well at the compliance point within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit,

after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(e) The owner or operator must determine the rate and direction of ground water flow in the uppermost aquifer at least annually.

(f) The department will specify the frequencies for collecting samples and conducting statistical tests to determine statistically significant evidence of increased contamination in accordance with subsection (8)(g) of this section. A sequence of at least four samples from each well (background and compliance wells) must be collected at least semiannually during the compliance period of the facility.

(g) The owner or operator must analyze samples from all monitoring wells at the compliance point for all constituents contained in Appendix IX of Part 264 at least annually to determine whether additional dangerous constituents are present in the uppermost aquifer and, if so, at what concentration, pursuant to procedures in (f) of this subsection. If the owner or operator finds Appendix IX constituents in the ground water that are not already identified in the permit as monitoring constituents, the owner or operator may resample within one month and repeat the Appendix IX analysis. If the second analysis confirms the presence of new constituents, the owner or operator must report the concentration of these additional constituents to the department within seven days after the completion of the second analysis and add them to the monitoring list. If the owner or operator chooses not to resample, then he or she must report the concentrations of these additional constituents to the department within seven days after completion of the initial analysis and add them to the monitoring list. If the owner or operator determines, pursuant to (d) of this subsection, that any concentration limits under subsection (5) of this section are being exceeded at any monitoring well at the point of compliance, he must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded;

(ii) Submit to the department an application for a permit modification to establish a corrective action program meeting the requirements of subsection (11) of this section, within ninety days, or within sixty days if an engineering feasibility study has been previously submitted to the department under subsection (9)(h)(v) of this section. For regulated units managing EHW, time frames of sixty days and forty-five days, respectively will apply. However, if the department finds that the full extent of the ninety/sixty-day or the sixty/forty-five-day time periods will increase the likelihood to cause a threat to public health, or the environment, it can at its discretion reduce their duration. In specifying shorter limits, the department will consider the following factors:

(A) The physical and chemical characteristics of the dangerous constituents and parameters in the ground water;

(B) The hydrogeological characteristics of the facility and of the surrounding land;

(C) The rate of movement and direction of flow of the affected ground water;

(D) The proximity to and withdrawal rates of ground water users downgradient; and

(E) The current and future uses of ground water in the concerned area; and

(iii) The application must at a minimum include the following information:

(A) A detailed description of corrective actions that will achieve compliance with the ground water protection standard specified in the permit; and

(B) A plan for a ground water monitoring program that will demonstrate the effectiveness of the corrective action.

(h) Reserved.

(i) If the owner or operator determines, pursuant to (d) of this subsection, that the ground water concentration limits under this section are being exceeded at any monitoring well at the point of compliance, he may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make appropriate changes to the compliance monitoring program at the facility; and

(iv) Continue to monitor in accord with the compliance monitoring program established under this section.

(j) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(11) Corrective action program. An owner or operator required to establish a corrective action program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section, for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must implement a corrective action program that prevents dangerous constituents and parameters from exceeding their respective concentration limits at the compliance point by removing the dangerous waste constituents and parameters or treating them in place.

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The permit will specify the specific measures that will be taken.

(c) The owner or operator must begin corrective action within a reasonable time period after the ground water protection standard is exceeded. The department will specify that time period in the facility permit. If a facility permit includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action will begin and such a requirement will operate in lieu of subsection (10)(i)(ii) of this section.

(d) In conjunction with a corrective action program, the owner or operator must establish and implement a ground water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program under subsection (10) of this section, and must be as effective as that program in determining compliance with the ground water protection standard under subsection (3) of this section, and in determining the success of a corrective action program under (e) of this subsection, where appropriate.

(e) In addition to the other requirements of this section, the owner or operator must conduct a corrective action program to remove or treat in place any dangerous constituents or parameters under subsection (4) of this section, that exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section, and the downgradient facility property boundary; and beyond the facility boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the department that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. The owner/operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case basis. For a facility seeking or required to have a permit, the corrective action measures to be taken must be specified in the permit.

(i) Corrective action measures under this subsection must be initiated at the effective date of the modified permit and completed without time delays considering the extent of contamination.

(ii) Corrective action measures under this subsection may be terminated once the concentration of dangerous constituents and parameters under subsection (4) of this section, is reduced to levels below their respective concentration limits under subsection (5) of this section.

(f) The owner or operator must continue corrective action measures during the compliance period to the extent necessary to ensure that the ground water protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, he must continue that corrective action for as long as necessary to achieve compliance with the ground water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if he can demonstrate, based on data from the ground water

monitoring program under (d) of this subsection, that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(g) The owner or operator must report in writing to the department on the effectiveness of the corrective action program. The owner or operator must submit these reports semi-annually.

(h) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(12) Use of the Model Toxics Control Act.

(a) The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under WAC 173-303-645 using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.

(b) Corrective action requirements imposed by an action issued pursuant to the Model Toxics Control Act will be in compliance with the requirements of WAC 173-303-645 and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.

(c) In the case of facilities seeking or required to have a permit under the provisions of this chapter the department will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation will in no way affect the timing or scope of review of the Model Toxics Control Act action.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-646 Corrective action. WAC 173-303-646 has been broken down into the following sections:

		<u>Old citation</u>
<u>WAC 173-303-64610</u>	<u>Purpose and applicability</u>	<u>WAC 173-303-646(1)</u>
<u>WAC 173-303-64620</u>	<u>Requirements</u>	<u>WAC 173-303-646(2)</u>
<u>WAC 173-303-64630</u>	<u>Use of the Model Toxics Control Act</u>	<u>WAC 173-303-646(3)</u>
<u>WAC 173-303-64640</u>	<u>Grandfathered corrective action management units (CAMUs)</u>	
<u>WAC 173-303-64650</u>	<u>Corrective action management unit (CAMU)</u>	<u>WAC 173-303-646(4)</u>
<u>WAC 173-303-64660</u>	<u>Designation of a corrective action management unit</u>	<u>WAC 173-303-646(5)</u>

PROPOSED

		Old citation
<u>WAC 173-303-64670</u>	<u>Incorporation of a regulated unit within a CAMU</u>	<u>WAC 173-303-646(6)</u>
<u>WAC 173-303-64680</u>	<u>Temporary units (TUs)</u>	<u>WAC 173-303-646(7)</u>
<u>WAC 173-303-64690</u>	<u>Staging piles</u>	<u>WAC 173-303-646(8)</u>
<u>WAC 173-303-646910</u>	<u>Disposal of CAMU-eligible wastes into permitted hazardous waste landfills</u>	
<u>WAC 173-303-646920</u>	<u>Disposal of CAMU-eligible wastes into permitted hazardous waste landfills located outside Washington</u>	

((1) Purpose and applicability.

(a) ~~The provisions of this section establish requirements for corrective action for releases of dangerous wastes and dangerous constituents including releases from solid waste management units.~~

(b) ~~The provisions of this section apply to facilities seeking or required to have a permit to treat, store, recycle or dispose of dangerous waste.~~

(c) ~~The provisions of this section do not apply to cleanup only facilities.~~

(d) ~~For purposes of this section, dangerous constituent means any constituent identified in WAC 173-303-9905 or 40 CFR Part 264 Appendix IX, any constituent that caused a waste to be listed as a dangerous waste or to exhibit a dangerous characteristic under this chapter or to meet a dangerous waste criteria under this chapter, and any constituent that is within the meaning of "hazardous substance" under RCW 70.105D.020(7).~~

(2) Requirements:

(a) ~~The owner or operator of a facility must institute corrective action as necessary to protect human health and the environment for all releases of dangerous wastes and dangerous constituents, including releases from all solid waste management units at the facility. Corrective action is required regardless of the time at which waste was managed at the facility or placed in such units and regardless of whether such facilities or units were intended for the management of solid or dangerous waste. Assurances of financial responsibility for such corrective action must be provided.~~

(b) ~~The owner/operator must implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment. Additionally, as necessary to protect human health and the environment, the department may require the owner/operator to implement on-site measures to address releases which have migrated beyond the facility boundary. Assurances of finan-~~

~~cial responsibility for such corrective action must be provided.~~

(c) ~~In the case of a facility seeking or required to have a permit under the provisions of chapter 173-303 WAC, corrective action must be specified in the permit. The permit will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completion of such corrective action.~~

(d) ~~At a minimum, corrective actions must be consistent with the following requirements of chapter 173-340 WAC:~~

(i) ~~As necessary to select a cleanup action consistent with WAC 173-340-360, 173-340-350, state remedial investigation and feasibility study. Information that is adequate to support selection of a cleanup action consistent with WAC 173-340-360 but was developed under a different authority (for example, as part of closure under WAC 173-303-610 or as part of a federally overseen cleanup) may be used.~~

(ii) ~~WAC 173-340-360, selection of cleanup actions.~~

(iii) ~~WAC 173-340-400, cleanup actions.~~

(iv) ~~WAC 173-340-410, compliance monitoring requirements.~~

(v) ~~WAC 173-340-420, periodic site reviews.~~

(vi) ~~WAC 173-340-440, institutional controls.~~

(vii) ~~WAC 173-340-700 through 173-340-760, cleanup standards.~~

(3) Use of the Model Toxics Control Act.

(a) ~~The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under subsection (2) of this section using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.~~

(b) ~~Corrective action requirements imposed by the department in an action issued pursuant to the Model Toxics Control Act will be in compliance with the requirements of subsection (2) of this section and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.~~

(c) ~~In the case of facilities seeking or required to have a permit under the provisions of this chapter the department will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation will in no way affect the timing or scope of review of the Model Toxics Control Act action.~~

(4) Corrective action management unit (CAMU):

(a) ~~In accordance with the requirements of this subsection, the director may designate an area at a facility as a corrective action management unit for the purpose of treating, storing or disposing of remediation waste that originates at the same facility in order to implement remedies under this section or to implement other cleanup actions. Placement of dangerous remediation waste into or within a CAMU does not constitute land disposal of dangerous waste. Consolidation or placement of dangerous remediation waste into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.~~

(b) ~~Designation of a CAMU will not in any way affect the department's existing authorities, including authority~~

under chapter 70.105D RCW, to address clean-up levels, media specific points of compliance, or other remedy selection decisions:

(e) Designation of a CAMU will not in any way affect the timing or scope of review of any actions taken under the Model Toxics Control Act pursuant to subsection (3) of this section to fulfill the corrective action requirements of subsection (2) of this section or the corrective action requirements of WAC 173-303-645.

(5) Designation of a corrective action management unit:

(a) When designating a CAMU, the director will do so in accordance with subsection (4) of this section, and the following:

(i) The CAMU will facilitate the implementation of reliable, effective, protective, and cost-effective remedies;

(ii) Waste management activities associated with the CAMU will not create unacceptable risks to humans or the environment resulting from exposure to dangerous wastes or dangerous constituents;

(iii) The CAMU will include uncontaminated areas of the facility only if including such areas for the purposes of managing remediation wastes is more protective than management of such wastes at contaminated areas of the facility;

(iv) Areas within the CAMU where wastes remain in place after closure of the CAMU, will be managed and contained so as to minimize future releases of dangerous wastes and dangerous constituents to the extent practicable;

(v) When appropriate and practicable, the CAMU will expedite the timing of remedial activity implementation;

(vi) The CAMU will enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU; and

(vii) The CAMU will, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.

(b) When designating a CAMU, the director will specify requirements for the CAMU including the following:

(i) The areal configuration of the CAMU;

(ii) Requirements for remediation waste management within the CAMU including specification of applicable design, operation, and closure requirements;

(iii) Requirements for ground water and/or vadose zone monitoring that are sufficient to:

(A) Continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of dangerous waste and dangerous constituents in ground water from sources located within the CAMU; and

(B) Detect and subsequently characterize releases of dangerous waste and dangerous constituents to ground water that may occur from areas of the CAMU in which wastes will remain in place after CAMU closure.

(iv) Requirements for closure that will minimize the need for further maintenance of the CAMU and will include, as appropriate and deemed necessary by the director, the following:

(A) Requirements for excavation, removal, treatment, and/or containment of wastes;

(B) For areas in which wastes will remain after closure of the CAMU, requirements for capping of such areas; and

(C) Requirements for removal and decontamination of equipment, devices, and structures used in remediation waste management activities within the CAMU.

(e) In establishing closure requirements for CAMUs under (b)(iv) of this subsection the director will consider the following factors:

(i) CAMU characteristics;

(ii) Volume of wastes which will remain in place after CAMU closure;

(iii) Potential for releases from the CAMU;

(iv) Physical and chemical characteristics of the waste;

(v) Hydrological and other relevant environmental conditions at the facility which may influence the migration of any potential or actual releases in and/or from the CAMU; and

(vi) Potential for exposure of humans and environmental receptors if releases were to occur at or from the CAMU.

(d) The director will, for areas of the CAMU in which wastes will remain in place after CAMU closure, specify post-closure requirements to control, minimize, or eliminate, to the extent necessary to protect human health and the environment, post-closure escape of dangerous waste, dangerous constituents, leachate, contaminated runoff, and dangerous waste decomposition products to the ground, to ground waters, to surface waters, and to the atmosphere. Such post-closure requirements will include, as necessary to protect human health and the environment, monitoring and maintenance activities and the frequency with which such activities will be performed to ensure the integrity of any cap, final cover, or other containment system.

(e) The owner/operator of a facility must provide sufficient information to enable the director to designate a CAMU in accordance with the criteria in subsections (4), (5)(a) through (d), and (6) of this section.

(f) The director will document the rationale for designating CAMUs and will make such documentation available to the public.

(g) Incorporation of the designation of and requirements for a CAMU into a existing permit must be approved by the director according to the procedures for agency-initiated permit modifications under WAC 173-303-830(3), or according to the permit modification procedures of WAC 173-303-830(4).

(6) Incorporation of a regulated unit within a CAMU.

(a) The director may designate a regulated unit (as defined in WAC 173-303-040) as a CAMU, or may incorporate a regulated unit into a CAMU, if:

(i) The regulated unit is closed or closing, meaning it has begun the closure process under WAC 173-303-610 or 173-303-400; and

(ii) Inclusion of the regulated unit will enhance implementation of effective, protective and reliable remedial actions at the facility.

(b) The requirements of WAC 173-303-610, 173-303-620, 173-303-645, and the unit specific requirements of WAC 173-303-650 through 173-303-680 that applied to the regulated unit will continue to apply to the portion of the CAMU into which the regulated unit was incorporated.

(7) Temporary units (TUs).

~~(a) In accordance with the requirements of this subsection, the director may designate a tank or container storage area at a facility as a temporary unit for the purpose of treating or storing remediation waste that originates at the same facility in order to implement remedies under this section or to implement other cleanup actions. The director may replace the design, operating and closure standards applicable to dangerous waste tank and container treatment and storage units under this chapter with alternative requirements that protect human health and the environment.~~

~~(b) Any temporary unit to which alternative requirements are applied in accordance with (a) of this subsection will be:~~

~~(i) Located within the facility boundary; and~~

~~(ii) Used only for treatment or storage of remediation wastes managed pursuant to implementation of the corrective action requirements of subsection (2) of this section at the facility.~~

~~(c) In establishing standards to be applied to a temporary unit, the director will consider the following factors:~~

~~(i) Length of time unit will be in operation;~~

~~(ii) Type of unit;~~

~~(iii) Volumes of wastes to be managed;~~

~~(iv) Physical and chemical characteristics of the wastes to be managed in the unit;~~

~~(v) Potential for releases from the unit;~~

~~(vi) Hydrogeological and other relevant environmental conditions at the facility which may influence the migration of any potential releases; and~~

~~(vii) Potential for exposure of humans and environmental receptors if releases were to occur from the unit.~~

~~(d) The director will specify the length of time, not to exceed one year, a temporary unit will be allowed to operate. The director will also specify design, operating, and closure requirements for the temporary unit.~~

~~(e) The director may extend the operating period of a temporary unit for up to one additional year, provided the director determines that:~~

~~(i) Continued operation of the unit will not pose a threat to human health and the environment; and~~

~~(ii) Continued operation of the unit is necessary to ensure timely and efficient implementation of remedial actions at the facility.~~

~~(f) Incorporation of the designation of and requirements for a temporary unit or a time extension for a temporary unit into an existing permit will be:~~

~~(i) Approved in accordance with the procedures for agency initiated permit modifications under WAC 173-303-830(3); or~~

~~(ii) Requested by the owner or operator as a Class II modification according to the procedures under WAC 173-303-830(4).~~

~~(g) The director will document the rationale for designating a temporary unit and for granting time extensions for temporary units and will make such documentation available to the public.~~

~~(8) Staging piles. The requirements for staging piles in 40 CFR Part 264.554 are incorporated by reference. The word "director" in 40 CFR means "department.")~~

NEW SECTION**WAC 173-303-64610 Purpose and applicability. (1)**

The provisions of this section establish requirements for corrective action for releases of dangerous wastes and dangerous constituents including releases from solid waste management units.

(2) The provisions of this section apply to facilities seeking or required to have a permit to treat, store, recycle or dispose of dangerous waste.

(3) The provisions of this section do not apply to cleanup-only facilities.

(4) For purposes of this section, dangerous constituent means any constituent identified in WAC 173-303-9905 or 40 CFR Part 264 Appendix IX, any constituent that caused a waste to be listed as a dangerous waste or to exhibit a dangerous characteristic under this chapter or to meet a dangerous waste criteria under this chapter, and any constituent that is within the meaning of "hazardous substance" under RCW 70.105D.020(7).

NEW SECTION**WAC 173-303-64620 Requirements. (1)**

The owner or operator of a facility must institute corrective action as necessary to protect human health and the environment for all releases of dangerous wastes and dangerous constituents, including releases from all solid waste management units at the facility. Corrective action is required regardless of the time at which waste was managed at the facility or placed in such units and regardless of whether such facilities or units were intended for the management of solid or dangerous waste. Assurances of financial responsibility for such corrective action must be provided.

(2) The owner/operator must implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment. Additionally, as necessary to protect human health and the environment, the department may require the owner/operator to implement on site measures to address releases which have migrated beyond the facility boundary. Assurances of financial responsibility for such corrective action must be provided.

(3) In the case of a facility seeking or required to have a permit under the provisions of chapter 173-303 WAC, corrective action must be specified in the permit. The permit will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completion of such corrective action.

(4) At a minimum, corrective actions must be consistent with the following requirements of chapter 173-340 WAC.

(a) As necessary to select a cleanup action consistent with WAC 173-340-360, 173-340-350, state remedial investigation and feasibility study. Information that is adequate to support selection of a cleanup action consistent with WAC 173-340-360 but was developed under a different authority (for example, as part of closure under WAC 173-303-610 or as part of a federally overseen cleanup) may be used.

(b) WAC 173-340-360, selection of cleanup actions.

- (c) WAC 173-340-400, implementation of the cleanup action.
- (d) WAC 173-340-410, compliance monitoring requirements.
- (e) WAC 173-340-420, periodic review.
- (f) WAC 173-340-440, institutional controls.
- (g) WAC 173-340-700 through 173-340-760, cleanup standards.

NEW SECTION

WAC 173-303-64630 Use of the Model Toxics Control Act. (1) The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under WAC 173-303-64620 using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.

(2) Corrective action requirements imposed by the department in an action issued pursuant to the Model Toxics Control Act will be in compliance with the requirements of WAC 173-303-64620 and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.

(3) In the case of facilities seeking or required to have a permit under the provisions of this chapter the department will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation will in no way affect the timing or scope of review of the Model Toxics Control Act action.

NEW SECTION

WAC 173-303-64640 Grandfathered corrective action management units (CAMUs). In accordance with the requirements of this subsection, the department may designate an area at a facility as a corrective action management unit for the purpose of treating, storing or disposing of remediation waste that originates at the same facility in order to implement remedies under this section or to implement other cleanup actions. Corrective action management unit means an area within a facility that is used only for managing remediation wastes for implementing corrective action or cleanup at the facility. A CAMU must be located within the contiguous property under the control of the owner or operator where the wastes to be managed in the CAMU originated. One or more CAMUs may be designated at a facility.

NEW SECTION

WAC 173-303-64650 Corrective action management unit (CAMU). (1) Except as provided in subsection (2) of this section, CAMUs are subject to the requirements of this section and WAC 173-303-64660 and 173-303-64670.

(2) CAMUs that were approved before April 22, 2002, or for which substantially complete applications (or equivalents) were submitted to the department on or before November 20, 2000, are subject to the requirements in WAC 173-303-64640 for grandfathered CAMUs; CAMU waste, activities, and design will not be subject to the standards in WAC

173-303-64650 and 173-303-64660, so long as the waste, activities, and design remain within the general scope of the CAMU as approved.

(3) In accordance with the requirements of this section and WAC 173-303-64660, the department may designate an area at a facility as a corrective action management unit for the purpose of treating, storing or disposing of CAMU-eligible waste that originates at the same facility in order to implement remedies under this section or to implement other cleanup actions. Corrective action management unit means an area within a facility that is used only for managing CAMU-eligible wastes for implementing corrective action or cleanup at the facility. A CAMU must be located within the contiguous property under the control of the owner or operator where the wastes to be managed in the CAMU originated. One or more CAMUs may be designated at a facility.

(a) CAMU-eligible waste means:

(i) All solid and dangerous wastes, and all media (including ground water, surface water, soils, and sediments) and debris, that are managed for implementing cleanup. As-generated wastes (either dangerous or nondangerous) from ongoing industrial operations at a site are not CAMU-eligible wastes.

(ii) Wastes that would otherwise meet the description in (a)(i) of this subsection are not "CAMU-Eligible Wastes" where:

(A) The wastes are dangerous wastes found during cleanup in intact or substantially intact containers, tanks, or other nonland-based units found above ground, unless the wastes are first placed in the tanks, containers or nonland-based units as part of cleanup, or the containers or tanks are excavated during the course of cleanup; or

(B) The department exercises the discretion in (b) of this subsection to prohibit the wastes from management in a CAMU.

(iii) Notwithstanding (a)(i) of this subsection, where appropriate, as-generated nondangerous waste may be placed in a CAMU where such waste is being used to facilitate treatment or the performance of the CAMU.

(b) The department may prohibit, where appropriate, the placement of waste in a CAMU where the department has or receives information that such wastes have not been managed in compliance with applicable land disposal treatment standards of 40 CFR part 268, which is incorporated by reference at WAC 173-303-140 (2)(a), or applicable unit design requirements of WAC 173-303-600, or applicable unit design requirements of WAC 173-303-400, or that noncompliance with other applicable requirements of this chapter likely contributed to the release of the waste.

(c) Prohibition against placing liquids in CAMUs.

(i) The placement of bulk or noncontainerized liquid dangerous waste or free liquids contained in dangerous waste (whether or not sorbents have been added) in any CAMU is prohibited except where placement of such wastes facilitates the remedy selected for the waste.

(ii) The requirements in WAC 173-303-140 (4)(b)(ii) for placement of containers holding free liquids in landfills apply to placement in a CAMU except where placement facilitates the remedy selected for the waste.

(iii) The placement of any liquid which is not a dangerous waste in a CAMU is prohibited unless such placement facilitates the remedy selected for the waste or a demonstration is made pursuant to WAC 173-303-140 (4)(b)(v).

(iv) The absence or presence of free liquids in either a containerized or a bulk waste must be determined in accordance with WAC 173-303-140 (b)(iii). Sorbents used to treat free liquids in CAMUs must meet the requirements of WAC 173-303-140 (4)(b)(iv).

(d) Placement of CAMU-eligible waste into or within a CAMU does not constitute land disposal of dangerous waste.

(e) Consolidation or placement of CAMU-eligible waste into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.

(4) Designation of a CAMU will not in any way affect the department's existing authorities, including authority under chapter 70.105D RCW, to address clean-up levels, media-specific points of compliance, or other remedy selection decisions.

(5) Designation of a CAMU will not in any way affect the timing or scope of review of any actions taken under the Model Toxics Control Act pursuant to WAC 173-303-64630 to fulfill the corrective action requirements of WAC 173-303-64620 or the corrective action requirements of WAC 173-303-645.

NEW SECTION

WAC 173-303-64660 Designation of a corrective action management unit. (1) The department must designate a CAMU that will be used for storage and/or treatment only in accordance with subsection (4) of this section. When designating all other CAMUs, the department will do so in accordance with WAC 173-303-64650 and 173-303-64670, and the following:

(a) The CAMU will facilitate the implementation of reliable, effective, protective, and cost-effective remedies;

(b) Waste management activities associated with the CAMU will not create unacceptable risks to humans or the environment resulting from exposure to dangerous wastes or dangerous constituents;

(c) The CAMU will include uncontaminated areas of the facility only if including such areas for the purposes of managing CAMU-eligible wastes is more protective than management of such wastes at contaminated areas of the facility;

(d) Areas within the CAMU where wastes remain in place after closure of the CAMU, will be managed and contained so as to minimize future releases of dangerous wastes and dangerous constituents to the extent practicable;

(e) When appropriate and practicable, the CAMU will expedite the timing of remedial activity implementation;

(f) The CAMU will enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU; and

(g) The CAMU will, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.

(2) The owner/operator must provide sufficient information to enable the department to designate a CAMU in accordance with the criteria in this section. This must include, unless not reasonably available, information on:

(a) The origin of the waste and how it was subsequently managed (including a description of the timing and circumstances surrounding the disposal and/or release);

(b) Whether the waste was listed or identified as dangerous at the time of disposal and/or release; and

(c) Whether the disposal and/or release of the waste occurred before or after the land disposal requirements of 40 CFR part 268, which are incorporated by reference at WAC 173-303-140 (2)(a), were in effect for the waste listing or characteristic.

(3) When designating a CAMU, the department will specify, in the permit or order, requirements for the CAMU including the following:

(a) The areal configuration of the CAMU;

(b) Except as provided in subsection (5) of this section, requirements for CAMU-eligible waste management within the CAMU including specification of applicable design, operation, treatment, and closure requirements;

(c) Minimum design requirements. CAMUs, except as provided in subsection (4) of this section, into which wastes are placed must be designed in accordance with the following:

(i) Unless the department approves alternate requirements under (c)(ii) of this subsection, CAMUs that consist of new, replacement, or laterally expanded units must include a composite liner and a leachate collection system that is designed and constructed to maintain less than a 30-cm depth of leachate over the liner. For purposes of this subsection, composite liner means a system consisting of two components; the upper component must consist of a minimum 30-mil flexible membrane liner (FML) or geomembrane, and the lower component must consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec. FML components consisting of high density polyethylene (HDPE) must be at least 60 mil thick. The FML component must be installed in direct and uniform contact with the compacted soil component;

(ii) Alternate requirements. The department may approve alternate requirements if:

(A) The department finds that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents into the ground water or surface water at least as effectively as the liner and leachate collection systems in (c)(i) of this subsection; or

(B) The CAMU is to be established in an area with existing significant levels of contamination, and the department finds that an alternative design, including a design that does not include a liner, would prevent migration from the unit that would exceed long-term remedial goals.

(d) Minimum treatment requirements: Unless the wastes will be placed in a CAMU for storage and/or treatment only in accordance with subsection (4) of this section, CAMU-eligible wastes that, absent this subsection, would be subject to the treatment requirements of 40 CFR part 268, which are incorporated by reference at WAC 173-303-140 (2)(a), and

that the department determines contain principal hazardous constituents must be treated to the standards specified in (d)(iii) of this subsection.

(i) Principal hazardous constituents are those constituents that the department determines pose a risk to human health and the environment substantially higher than the cleanup levels or goals at the site.

(A) In general, the department will designate as principal hazardous constituents:

(I) Carcinogens that pose a potential direct risk from ingestion or inhalation at the site at or above 10^{-3} ; and

(II) Noncarcinogens that pose a potential direct risk from ingestion or inhalation at the site an order of magnitude or greater over their reference dose.

(B) The department will also designate constituents as principal hazardous constituents, where appropriate, when risks to human health and the environment posed by the potential migration of constituents in wastes to ground water are substantially higher than cleanup levels or goals at the site; when making such a designation, the department may consider such factors as constituent concentrations, and fate and transport characteristics under site conditions.

(C) The department may also designate other constituents as principal hazardous constituents that the department determines pose a risk to human health and the environment substantially higher than the cleanup levels or goals at the site.

(ii) In determining which constituents are "principal hazardous constituents," the department must consider all constituents which, absent this section, would be subject to the treatment requirements of 40 CFR part 268, which are incorporated by reference at WAC 173-303-140 (2)(a).

(iii) Waste that the department determines contains principal hazardous constituents must meet treatment standards determined in accordance with (d)(iv) or (v) of this subsection.

(iv) Treatment standards for wastes placed in CAMUs.

(A) For nonmetals, treatment must achieve 90 percent reduction in total principal hazardous constituent concentrations, except as provided by (d)(iv)(C) of this subsection.

(B) For metals, treatment must achieve 90 percent reduction in principal hazardous constituent concentrations as measured in leachate from the treated waste or media (tested according to the TCLP) or 90 percent reduction in total constituent concentrations (when a metal removal treatment technology is used), except as provided by (d)(iv)(C) of this subsection.

(C) When treatment of any principal hazardous constituent to a 90 percent reduction standard would result in a concentration less than 10 times the Universal Treatment Standard for that constituent, treatment to achieve constituent concentrations less than 10 times the Universal Treatment Standard is not required. Universal Treatment Standards are identified in 40 CFR 268.48 Table UTS, which is incorporated by reference at WAC 173-303-140 (2)(a).

(D) For waste exhibiting the dangerous characteristic of ignitability, corrosivity or reactivity, the waste must also be treated to eliminate these characteristics.

(E) For debris, the debris must be treated in accordance with 40 CFR 268.45, which is incorporated by reference at

WAC 173-303-140 (2)(a), or by methods or to levels established under (d)(iv)(A) through (D) of this subsection or (d)(v) of this subsection, whichever the department determines is appropriate.

(F) Alternatives to TCLP. For metal bearing wastes for which metals removal treatment is not used, the department may specify a leaching test other than the TCLP (SW846 Method 1311, WAC 173-303-110 (3)(a)) to measure treatment effectiveness, provided the department determines that an alternative leach testing protocol is appropriate for use, and that the alternative more accurately reflects conditions at the site that affect leaching.

(v) Adjusted standards. The department may adjust the treatment level or method in (d)(iv) of this subsection to a higher or lower level, based on one or more of the following factors, as appropriate. The adjusted level or method must be protective of human health and the environment:

(A) The technical impracticability of treatment to the levels or by the methods in (d)(iv) of this subsection;

(B) The levels or methods in (d)(iv) of this subsection would result in concentrations of principal hazardous constituents (PHCs) that are significantly above or below cleanup standards applicable to the site (established either site-specifically, or promulgated under state or federal law);

(C) The views of the affected local community on the treatment levels or methods in (d)(iv) of this subsection as applied at the site, and, for treatment levels, the treatment methods necessary to achieve these levels;

(D) The short-term risks presented by the on-site treatment method necessary to achieve the levels or treatment methods in (d)(iv) of this subsection;

(E) The long-term protection offered by the engineering design of the CAMU and related engineering controls:

(I) Where the treatment standards in (d)(iv) of this subsection are substantially met and the principal hazardous constituents in the waste or residuals are of very low mobility; or

(II) Where cost-effective treatment has been used and the CAMU meets the liner and leachate collection requirements for new land disposal units at WAC 173-303-665 (2)(h) and (j); or

(III) Where, after review of appropriate treatment technologies, the department determines that cost-effective treatment is not reasonably available, and the CAMU meets the liner and leachate collection requirements for new land disposal units at WAC 173-303-665 (2)(h) and (j); or

(IV) Where cost-effective treatment has been used and the principal hazardous constituents in the treated wastes are of very low mobility; or

(V) Where, after review of appropriate treatment technologies, the department determines that cost-effective treatment is not reasonably available, the principal hazardous constituents in the wastes are of very low mobility, and either the CAMU meets or exceeds the liner standards for new, replacement, or laterally expanded CAMUs in (c)(i) and (ii) of this subsection, or the CAMU provides substantially equivalent or greater protection.

(vi) The treatment required by the treatment standards must be completed prior to, or within a reasonable time after, placement in the CAMU.

(vii) For the purpose of determining whether wastes placed in CAMUs have met site-specific treatment standards, the department may, as appropriate, specify a subset of the principal hazardous constituents in the waste as analytical surrogates for determining whether treatment standards have been met for other principal dangerous constituents. This specification will be based on the degree of difficulty of treatment and analysis of constituents with similar treatment properties.

(e) Except as provided in subsection (4) of this section, requirements for ground water and/or vadose zone monitoring and corrective action that are sufficient to:

(i) Continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of dangerous waste and dangerous constituents in ground water from sources located within the CAMU; and

(ii) Detect and subsequently characterize releases of dangerous waste and dangerous constituents to ground water that may occur from areas of the CAMU in which wastes will remain in place after CAMU closure.

(iii) Require notification to the department and corrective action as necessary to protect human health and the environment for releases to ground water from the CAMU.

(f) Except as provided in subsection (4) of this section, requirements for closure will minimize the need for further maintenance.

(i) Requirements for closure will include, as appropriate and deemed necessary by the department, the following:

(A) Requirements for excavation, removal, treatment, and/or containment of wastes; and

(B) Requirements for removal and decontamination of equipment, devices, and structures used in CAMU-eligible waste management activities within the CAMU.

(ii) In establishing closure requirements for CAMUs under subsection (3) of this section, the department will consider the following factors:

(A) CAMU characteristics;

(B) Volume of wastes which will remain in place after CAMU closure;

(C) Potential for releases from the CAMU;

(D) Physical and chemical characteristics of the waste;

(E) Hydrological and other relevant environmental conditions at the facility which may influence the migration of any potential or actual releases in and/or from the CAMU; and

(F) Potential for exposure of humans and environmental receptors if releases were to occur at or from the CAMU.

(iii) Cap requirements:

(A) At final closure of the CAMU, for areas in which wastes will remain after closure of the CAMU, with constituent concentrations at or above remedial levels or goals applicable to the site, the owner or operator must cover the CAMU with a final cover designed and constructed to meet the following performance criteria, except as provided in (f)(iii)(B) of this subsection:

(I) Provide long-term minimization of migration of liquids through the closed unit;

(II) Function with minimum maintenance;

(III) Promote drainage and minimize erosion or abrasion of the cover;

(IV) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(V) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(B) The department may determine that modifications to (f)(iii)(A) of this subsection are needed to facilitate treatment or the performance of the CAMU (e.g., to promote biodegradation).

(iv) The department will, for areas of the CAMU in which wastes will remain in place after CAMU closure, specify post-closure requirements to control, minimize, or eliminate, to the extent necessary to protect human health and the environment, post-closure escape of dangerous waste, dangerous constituents, leachate, contaminated runoff, and dangerous waste decomposition products to the ground, to ground waters, to surface waters, and to the atmosphere. Such post-closure requirements will include, as necessary to protect human health and the environment, monitoring and maintenance activities and the frequency with which such activities will be performed to ensure the integrity of any cap, final cover, or other containment system.

(4) CAMUs used for storage and/or treatment only are CAMUs in which wastes will not remain after closure. Such CAMUs must be designated in accordance with all of the requirements of this subsection, except as follows. (Note that staging piles requirements are incorporated by reference at WAC 173-303-64690.)

(a) CAMUs that are used for storage and/or treatment only and that operate in accordance with the time limits established in the staging pile regulations at 40 CFR 264.554 (d)(1)(iii), (h), and (i) are subject to the requirements for staging piles at 40 CFR 264.554 (d)(1)(i) and (ii), § 264.554 (d)(2), § 264.554 (e) and (f), and § 264.554 (j) and (k) in lieu of the performance standards and requirements for CAMUs in this section at subsections (1) and (3)(c) through (f).

(b) CAMUs that are used for storage and/or treatment only and that do not operate in accordance with the time limits established in the staging pile regulations at 40 CFR 264.554 (d)(1)(iii), (h), and (i):

(i) Must operate in accordance with a time limit, established by the department, that is no longer than necessary to achieve a timely remedy selected for the waste; and

(ii) Are subject to the requirements for staging piles at 40 CFR 264.554 (d)(1)(i) and (ii), 264.554 (d)(2), 264.554 (e) and (f), and 264.554 (j) and (k) in lieu of the performance standards and requirements for CAMUs in this section at subsections (1) and (3)(d) and (f).

(5) CAMUs into which wastes are placed where all wastes have constituent levels at or below remedial levels or goals applicable to the site do not have to comply with the requirements for liners at subsection (3)(c)(i) of this section, caps at subsection (3)(f)(iii) of this section, ground water monitoring requirements at subsection (3)(e) of this section or, for treatment and/or storage-only CAMUs, the design standards at subsection (4) of this section.

(6) The department must provide public notice and a reasonable opportunity for public comment before designating a CAMU. Such a notice will include the rationale for any proposed adjustments under subsection (3)(d)(v) of this section

to the treatment standards in subsection (3)(d)(iv) of this section.

(7) Notwithstanding any other provision of this subsection, the department may impose additional requirements as necessary to protect human health and the environment.

(8) Incorporation of the designation of and requirements for a CAMU into a existing permit must be approved by the department according to the procedures for agency initiated permit modifications under WAC 173-303-830(3), or according to the permit modification procedures of WAC 173-303-830(4).

NEW SECTION

WAC 173-303-64670 Incorporation of a regulated unit within a CAMU. (1) The department may designate a regulated unit (as defined in WAC 173-303-040) as a CAMU, or may incorporate a regulated unit into a CAMU, if:

(a) The regulated unit is closed or closing, meaning it has begun the closure process under WAC 173-303-610 or 173-303-400; and

(b) Inclusion of the regulated unit will enhance implementation of effective, protective and reliable remedial actions at the facility.

(2) The requirements of WAC 173-303-610, 173-303-620, 173-303-645, and the unit specific requirements of WAC 173-303-650 through 173-303-680 that applied to the regulated unit will continue to apply to the portion of the CAMU into which the regulated unit was incorporated.

NEW SECTION

WAC 173-303-64680 Temporary units (TUs). (1) In accordance with the requirements of this subsection, the department may designate a tank or container storage area at a facility as a temporary unit for the purpose of treating or storing remediation waste that originates at the same facility in order to implement remedies under this section or to implement other cleanup actions. The department may replace the design, operating and closure standards applicable to dangerous waste tank and container treatment and storage units under this chapter with alternative requirements that protect human health and the environment.

(2) Any temporary unit to which alternative requirements are applied in accordance with subsection (1) of this section will be:

(a) Located within the facility boundary; and

(b) Used only for treatment or storage of remediation wastes managed pursuant to implementation of the corrective action requirements of WAC 173-303-64620 at the facility.

(3) In establishing standards to be applied to a temporary unit, the department will consider the following factors:

(a) Length of time unit will be in operation;

(b) Type of unit;

(c) Volumes of wastes to be managed;

(d) Physical and chemical characteristics of the wastes to be managed in the unit;

(e) Potential for releases from the unit;

(f) Hydrogeological and other relevant environmental conditions at the facility which may influence the migration of any potential releases; and

(g) Potential for exposure of humans and environmental receptors if releases were to occur from the unit.

(4) The department will specify the length of time, not to exceed one year, a temporary unit will be allowed to operate. The director will also specify design, operating, and closure requirements for the temporary unit.

(5) The department may extend the operating period of a temporary unit for up to one additional year, provided the director determines that:

(a) Continued operation of the unit will not pose a threat to human health and the environment; and

(b) Continued operation of the unit is necessary to ensure timely and efficient implementation of remedial actions at the facility.

(6) Incorporation of the designation of and requirements for a temporary unit or a time extension for a temporary unit into an existing permit will be:

(a) Approved in accordance with the procedures for agency-initiated permit modifications under WAC 173-303-830(3); or

(b) Requested by the owner or operator as a Class II modification according to the procedures under WAC 173-303-830(4).

(7) The department will document the rationale for designating a temporary unit and for granting time extensions for temporary units and will make such documentation available to the public.

NEW SECTION

WAC 173-303-64690 Staging piles. The requirements for staging piles in 40 CFR Part 264.554 are incorporated by reference. The word "director" in 40 CFR means "department."

NEW SECTION

WAC 173-303-646910 Disposal of CAMU-eligible wastes into permitted hazardous waste landfills. (1) The department may approve placement of CAMU-eligible wastes in hazardous waste landfills not located at the site from which the waste originated, without the wastes meeting the requirements of RCRA 40 CFR part 268, which is incorporated by reference at WAC 173-303-140(2), if the conditions in (a) through (c) of this subsection are met:

(a) The waste meets the definition of CAMU-eligible waste in WAC 173-303-64650 (3)(a) and (b).

(b) The department identifies principal hazardous constituents in such waste, in accordance with WAC 173-303-64660 (3)(d)(i) and (ii), and requires that such principal hazardous constituents are treated to any of the following standards specified for CAMU-eligible wastes:

(i) The treatment standards under WAC 173-303-64660 (3)(d)(iv); or

(ii) Treatment standards adjusted in accordance with WAC 173-303-64660 (3)(d)(v)(A), (C), (D) or (E)(I); or

(iii) Treatment standards adjusted in accordance with WAC 173-303-64660 (3)(d)(v)(E)(II), where treatment has been used and that treatment significantly reduces the toxicity or mobility of the principal hazardous constituents in the

waste, minimizing the short-term and long-term threat posed by the waste, including the threat at the remediation site.

(c) The landfill receiving the CAMU-eligible waste must have a RCRA hazardous waste permit, meet the requirements for new landfills in WAC 173-303-665, and be authorized to accept CAMU-eligible wastes; for the purposes of this requirement, "permit" does not include interim status.

(2) The person seeking approval must provide sufficient information to enable the department to approve placement of CAMU-eligible waste in accordance with subsection (1) of this section. Information required by WAC 173-303-64660 (2)(a) through (c) for CAMU applications must be provided, unless not reasonably available.

(3) The department must provide public notice and a reasonable opportunity for public comment before approving CAMU-eligible waste for placement in an off-site permitted hazardous waste landfill, consistent with the requirements for CAMU approval at WAC 173-303-64660(6). The approval must be specific to a single remediation.

(4) Applicable dangerous waste management requirements, including recordkeeping requirements to demonstrate compliance with treatment standards approved under this section, for CAMU-eligible waste must be incorporated into the receiving facility permit through permit issuance or a permit modification, providing notice and an opportunity for comment and a hearing. Notwithstanding WAC 173-303-810(8), a landfill may not receive CAMU-eligible waste under this subsection unless its permit specifically authorizes receipt of such waste.

(5) For each remediation, CAMU-eligible waste may not be placed in an off-site landfill authorized to receive CAMU-eligible waste in accordance with subsection (4) of this section until the following additional conditions have been met:

(a) The landfill owner/operator notifies the department responsible for oversight of the landfill and persons on the facility mailing list, maintained in accordance with WAC 173-303-840 (3)(e)(i)(D), of his or her intent to receive CAMU-eligible waste in accordance with this section; the notice must identify the source of the remediation waste, the principal hazardous constituents in the waste, and treatment requirements.

(b) Persons on the facility mailing list may provide comments, including objections to the receipt of the CAMU-eligible waste, to the department within fifteen days of notification.

(c) The department may object to the placement of the CAMU-eligible waste in the landfill within thirty days of notification; the department may extend the review period an additional thirty days because of public concerns or insufficient information.

(d) CAMU-eligible wastes may not be placed in the landfill until the department has notified the facility owner/operator that he or she does not object to its placement.

(e) If the department objects to the placement or does not notify the facility owner/operator that he or she has chosen not to object, the facility may not receive the waste, notwithstanding WAC 173-303-810(8), until the objection has been resolved, or the owner/operator obtains a permit modification

in accordance with the procedures of WAC 173-303-830(4) specifically authorizing receipt of the waste.

(f) As part of the permit issuance or permit modification process of subsection (4) of this section, the department may modify, reduce, or eliminate the notification requirements of this subsection as they apply to specific categories of CAMU-eligible waste, based on minimal risk.

(6) Generators of CAMU-eligible wastes sent off site to a hazardous waste landfill under this subsection must comply with the requirements of 40 CFR 268.7 (a)(4), which is incorporated by reference at WAC 173-303-140(2); off-site facilities treating CAMU-eligible wastes to comply with this section must comply with the requirements of Sec. 268.7 (b)(4), which is incorporated by reference at WAC 173-303-140(2), except that the certification must be with respect to the treatment requirements of subsection (1)(b) of this section.

(7) For the purposes of this subsection only, the "design of the CAMU" in WAC 173-303-64660 (3)(d)(v)(E) means design of the permitted Subtitle C landfill.

NEW SECTION

WAC 173-303-646920 Disposal of CAMU-eligible wastes into permitted hazardous waste landfills located outside Washington. Notwithstanding any provision of WAC 173-303-646910, the department may approve placement of CAMU-eligible wastes in hazardous waste landfills located outside of the state of Washington if the landfill receiving the CAMU-eligible waste is authorized to accept CAMU-eligible wastes pursuant to 40 CFR § 264.555 or pursuant to EPA-approved state regulations implementing 40 CFR § 264.555, and the conditions of WAC 173-303-646910 (1)(a), (b), (2), (3), and (6) are met.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-670 Incinerators. (1) Applicability.

(a) Except as WAC 173-303-600 provides otherwise, the regulations in this section apply to owners and operators of facilities that incinerate dangerous waste and to owners and operators who burn dangerous waste in boilers or industrial furnaces in order to destroy them, or who burn dangerous waste in boilers or in industrial furnaces for any recycling purpose and elect to be regulated under this section.

(b) Integration of the MACT standards. 40 CFR part 63 subpart EEE is incorporated by reference at WAC 173-400-075 (5)(a). Note that if you are subject to Part 63 you must get an air permit from ecology or the local air authority.

(i) Except as provided by (b)(ii), (iii), and (iv) of this subsection, the standards of this section no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR part 63, subpart EEE, by conducting a comprehensive performance test and submitting to the department a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with the requirements of part 63, subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, dangerous waste permit conditions that were based on the standards of this section will continue to be in effect until they are

removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

(ii) The MACT standards do not replace the closure requirements of WAC 173-303-610 or the applicable requirements of WAC 173-303-280 through 173-303-400, 173-303-645, 173-303-610, 173-303-620, 173-303-691, 173-303-692, and 173-303-902.

(iii) The particulate matter standard of subsection (4)(c)(ii) of this section remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard of 40 CFR 63.1206 (b)(14).

(iv) The following requirements remain in effect for startup, shutdown, and malfunction events if you elect to comply with 40 CFR 270.235 (a)(1)(i) to minimize emissions of toxic compounds from these events:

(A) Subsection (6)(a) of this section requiring that an incinerator operate in accordance with operating requirements specified in the permit; and

(B) Subsection (6)(c) of this section requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes.

(c) The department may, in establishing permit conditions, exempt the facility from all requirements of this section except subsection (2) of this section, waste analysis, and subsection (8) of this section, closure, if the department finds, after an examination of the waste analysis included with Part B of the owner/operator's permit application, that the waste to be burned:

(i)(A) Is either listed as a dangerous waste in WAC 173-303-080 only because it is ignitable or, that the waste is designated only as an ignitable dangerous waste under WAC 173-303-090; or

(B) Is either listed in WAC 173-303-080 or is designated under WAC 173-303-090 solely because it is reactive for the characteristics described in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii) and (viii), and will not be burned when other dangerous wastes are present in the combustion zone; and

(ii) Contains none of the dangerous constituents listed in WAC 173-303-9905 above significant concentration limits; and

(iii) Is not designated by the dangerous waste criteria of WAC 173-303-100.

((e)) (d) The owner or operator of an incinerator may conduct trial burns, subject only to the requirements of WAC 173-303-807, trial burn permits.

(2) Waste analysis.

(a) As a portion of a trial burn plan required by WAC 173-303-807, or with Part B of his permit application, the owner or operator must have included an analysis of his waste feed sufficient to provide all information required by WAC 173-303-807 or 173-303-806 (3) and (4).

(b) Throughout normal operation the owner or operator must conduct sufficient waste analysis to verify that waste feed to the incinerator is within the physical and chemical composition limits specified in his permit (under subsection (6)(b) of this section).

(3) Designation of principal organic dangerous constituents and dangerous combustion byproducts. Principal organic dangerous constituents (PODCs) and dangerous combustion

byproducts must be treated to the extent required by the performance standards specified in subsection (4) of this section. For each waste feed to be burned, one or more PODCs and dangerous combustion byproducts will be specified in the facility's permit from among those constituents listed in WAC 173-303-9905 and, to the extent practical, from among those constituents which contribute to the toxicity, persistence, or carcinogenicity of wastes designated under WAC 173-303-100. This specification will be based on the degree of difficulty of incineration of the organic constituents of the waste feed and its combustion byproducts and their concentration or mass, considering the results of waste analyses and trial burns or alternative data submitted with Part B of the facility's permit application. Organic constituents or byproducts which represent the greatest degree of difficulty of incineration will be those most likely to be designated as PODCs and dangerous combustion byproducts. Constituents are more likely to be designated as PODCs or dangerous combustion byproducts if they are present in large quantities or concentrations. Trial PODCs will be designated for performance of trial burns in accordance with the procedure specified in WAC 173-303-807 for obtaining trial burn permits. Trial dangerous combustion byproducts may be designated under the same procedures.

(4) Performance standards. An incinerator burning dangerous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under subsection (6) of this section, it will meet the following performance standards:

(a)(i) Except as provided in (a)(ii) of this subsection, an incinerator burning dangerous waste must achieve a destruction and removal efficiency (DRE) of 99.99 percent for each PODC designated (under subsection (3) of this section) in its permit for each waste feed. DRE is determined for each PODC from the following equation:

$$DRE = \frac{(w_{in} - w_{out}) \times 100\%}{w_{in}}$$

Where:

w_{in} = Mass feed rate of one PODC in the waste stream feeding the incinerator, and

w_{out} = Mass emission rate of the same PODC present in exhaust emissions prior to release to the atmosphere.

(ii) An incinerator burning dangerous wastes F020, F021, F022, F023, F026, or F027 must achieve a destruction and removal efficiency (DRE) of 99.9999% for each principal organic dangerous constituent (PODCs) designated (under subsection (3) of this section) in its permit. This performance must be demonstrated on PODCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each PODCs from the equation in subsection (4)(a)(i) of this section. In addition, the owner or operator of the incinerator must notify the department of his intent to incinerate dangerous wastes F020, F021, F022, F023, F026, or F027.

(b) Incinerators burning dangerous waste must destroy dangerous combustion byproducts designated under subsection (3) of this section so that the total mass emission rate of

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these byproducts emitted from the stack is no more than .01 percent of the total mass feed rate of PODCs fed into the incinerator.

(c)(i) An incinerator burning dangerous waste and producing stack emissions of more than 1.8 kilograms per hour (4 pounds per hour) of hydrogen chloride (HCl) must control HCl emissions such that the rate of emission is no greater than the larger of either 1.8 kilograms per hour or one percent of the HCl in the stack gas prior to entering any pollution control equipment.

(ii) An incinerator burning dangerous waste must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) when corrected for the amount of oxygen in the stack gas according to the formula:

$$P_c = \frac{P_m \times 14}{21 - Y}$$

Where P_c is the corrected concentration of particulate matter, P_m is the measured concentration of particulate matter, and Y is the measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in 40 CFR Part 60, Appendix A (Method 3). This correction procedure is to be used by all dangerous waste incinerators except those operating under conditions of oxygen enrichment. For these facilities, the department will select an appropriate correction procedure to be specified in the facility permit.

(d) The emission standards specified in (c) of this subsection must be met when no other more stringent standards exist. Where a state or local air pollution control authority has jurisdiction and has more stringent emission standards, an incinerator burning dangerous wastes must comply with the applicable air pollution control authority's emission standards (including limits based on best available control technology).

(e) For purposes of permit enforcement, compliance with the operating requirements specified in the permit (under subsection (6) of this section), will be regarded as compliance with subsection (4) of this section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the performance requirements of subsection (4) of this section, may be evidence justifying modification, revocation, or reissuance of a permit under WAC 173-303-830.

(5) Trial burns and permit modifications.

(a) The owner or operator of a dangerous waste incinerator may burn only wastes specified in his permit and only under operating conditions specified for those wastes under subsection (6) of this section, except:

- (i) In approved trial burns under WAC 173-303-807; or
- (ii) Under exemptions created by WAC 173-303-670(1).

(b) New dangerous wastes may be burned only after operating conditions have been specified in a trial burn permit or a permit modification has been issued, as applicable. Operating requirements for new wastes may be based on either trial burn results or alternative data included with Part B of a permit application under WAC 173-303-806(4).

(c) The permit for a new dangerous waste incinerator must establish appropriate conditions for each of the applica-

ble requirements of this section, including but not limited to allowable waste feeds and operating conditions necessary to meet the requirements of subsection (6) of this section, sufficient to comply with the following standards:

(i) For the period beginning with initial introduction of dangerous waste to the incinerator and ending with initiation of the trial burn, and only for the minimum time required to establish operating conditions required in (c)(ii) of this subsection, not to exceed a duration of seven hundred twenty hours operating time for treatment of dangerous waste. The operating requirements must be those most likely to ensure compliance with the performance standards of subsection (4) of this section, based on the department's engineering judgment. The department may extend the duration of this period once for up to seven hundred twenty additional hours when good cause for the extension is demonstrated by the applicant;

(ii) For the duration of the trial burn, the operating requirements must be sufficient to demonstrate compliance with the performance standards of subsection (4) of this section, and must be in accordance with the approved trial burn plan;

(iii) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the department, the operating requirements must be those most likely to ensure compliance with the performance standards of subsection (4) of this section, based on the department's engineering judgment;

(iv) For the remaining duration of the permit, the operating requirements must be those demonstrated, in a trial burn or by alternative data specified in WAC 173-303-806(4)(f)(iii)(G), as sufficient to ensure compliance with the performance standards of subsection (4) of this section.

(6) Operating requirements.

(a) An incinerator must be operated in accordance with operating requirements specified in the permit. These will be specified on a case-by-case basis as those demonstrated (in a trial burn or in alternative data as specified in subsection (5)(b) of this section and included with Part B of a facility's permit application) to be sufficient to comply with the performance standards of subsection (4) of this section.

(b) Each set of operating requirements will specify the composition of the waste feed (including acceptable variations in the physical or chemical properties of the waste feed which will not affect compliance with the performance requirement of subsection (4) of this section) to which the operating requirements apply. For each such waste feed, the permit will specify acceptable operating limits including the following conditions:

- (i) Carbon monoxide (CO) level in the stack exhaust gas;
- (ii) Waste feed rate;
- (iii) Combustion temperature;
- (iv) An appropriate indicator of combustion gas velocity;
- (v) Allowable variations in incinerator system design or operating procedures; and

(vi) Such other operating requirements as are necessary to ensure that the performance standards of subsection (4) of this section are met.

(c) During startup and shutdown of an incinerator, dangerous waste (except waste exempted in accordance with subsection (1)(b) of this section) must not be fed into the incinerator unless the incinerator is operating within the conditions of operation (temperature, air feed rate, etc.) specified in the permit.

(d) Fugitive emissions from the combustion zone must be controlled by:

(i) Keeping the combustion zone totally sealed against fugitive emissions;

(ii) Maintaining a combustion zone pressure lower than atmospheric pressure; or

(iii) An alternate means of control demonstrated (with Part B of the permit application) to provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure.

(e) An incinerator must be operated with a functioning system to automatically cut off waste feed to the incinerator when operating conditions deviate from limits established under (a) of this subsection.

(f) An incinerator must cease operation when changes in waste feed, incinerator design, or operating conditions exceed limits designated in its permit.

(7) Monitoring and inspections.

(a) The owner or operator must conduct, as a minimum, the following monitoring while incinerating dangerous waste:

(i) Combustion temperature, waste feed rate, and the indicator of combustion gas velocity specified in the facility permit must be monitored on a continuous basis;

(ii) Carbon monoxide (CO) must be monitored on a continuous basis at a point in the incinerator downstream of the combustion zone and prior to release to the atmosphere; and

(iii) As required by the department, sampling and analysis of the waste and exhaust emissions must be conducted to verify that the operating requirements established in the permit achieve the performance standards of subsection (4) of this section.

(b) The incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be completely inspected at least daily for leaks, spills, fugitive emissions, and signs of tampering. All emergency waste feed cutoff controls and system alarms must be tested at least weekly to verify proper operation, unless the owner or operator demonstrates to the department that weekly inspections will unduly restrict or upset operations and that less frequent inspection will be adequate. At a minimum, emergency cutoff and alarm systems must be tested at least monthly.

(c) This monitoring and inspection data must be recorded and the records must be placed in the operating log required by WAC 173-303-380(1).

(8) Closure. At closure the owner or operator must remove all dangerous waste and dangerous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the incinerator site. Remaining equipment, bases, liners, soil, and debris containing or contami-

nated with dangerous waste or waste residues must be decontaminated or removed.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-680 Miscellaneous units. (1) Applicability. The requirements of this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste in miscellaneous units, except as WAC 173-303-600 provides otherwise.

(2) Environmental performance standards. A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of dangerous waste or dangerous constituents from the unit. Permit terms and provisions ~~((with))~~ must include those requirements in WAC 173-303-630 through 173-303-670, 40 CFR Subparts AA through CC, which are incorporated by reference at WAC 173-303-690 through 173-303-692, WAC 173-303-800 through 173-303-806, part 63 subpart EEE (which is incorporated by reference at WAC 173-400-075 (5)(a)), and 40 CFR Part 146 that are appropriate for the miscellaneous units being permitted. Protection of human health and the environment includes, but is not limited to:

(a) Prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in the ground water or subsurface environment, considering:

(i) The volume and physical and chemical characteristics of the waste in the unit, including its potential for migration through soil, liners, or other containing structures;

(ii) The hydrologic and geologic characteristics of the unit and the surrounding area;

(iii) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water;

(iv) The quantity and direction of ground water flow;

(v) The proximity to and withdrawal rates of current and potential ground water users;

(vi) The patterns of land use in the region;

(vii) The potential for deposition or migration of waste constituents into subsurface physical structures, and into the root zone of food-chain crops and other vegetation;

(viii) The potential for health risks caused by human exposure to waste constituents; and

(ix) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

(b) Prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in surface water, or wetlands or on the soil surface considering:

(i) The volume and physical and chemical characteristics of the waste in the unit;

(ii) The effectiveness and reliability of containing, confining, and collecting systems and structures in preventing migration;

(iii) The hydrologic characteristics of the unit and the surrounding area, including the topography of the land around the unit;

(iv) The patterns of precipitation in the region;

(v) The quantity, quality, and direction of ground water flow;

(vi) The proximity of the unit to surface waters;

(vii) The current and potential uses of nearby surface waters and any water quality standards established for those surface waters;

(viii) The existing quality of surface waters and surface soils, including other sources of contamination and their cumulative impact on surface waters and surface soils;

(ix) The patterns of land use in the region;

(x) The potential for health risks caused by human exposure to waste constituents; and

(xi) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

(c) Prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in the air, considering:

(i) The volume and physical and chemical characteristics of the waste in the unit, including its potential for the emission and dispersal of gases, aerosols and particulates;

(ii) The effectiveness and reliability of systems and structures to reduce or prevent emissions of dangerous constituents to the air;

(iii) The operating characteristics of the unit;

(iv) The atmospheric, meteorologic, and topographic characteristics of the unit and the surrounding area;

(v) The existing quality of the air, including other sources of contamination and their cumulative impact on the air;

(vi) The potential for health risks caused by human exposure to waste constituents; and

(vii) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

(3) Monitoring, analysis, inspection, response, reporting, and corrective action. Monitoring, testing, analytical data, inspections, response, and reporting procedures and frequencies must ensure compliance with subsection (2) of this section, WAC 173-303-320, 173-303-340(1), 173-303-390, and ~~((173-303-646(2)))~~ 173-303-646(2) as well as meet any additional requirements needed to protect human health and the environment as specified in the permit.

(4) Post-closure care. A miscellaneous unit that is a disposal unit must be maintained in a manner that complied with subsection (2) of this section during the post-closure care period. In addition, if a treatment or storage unit has contaminated soils or ground water that cannot be completely removed or decontaminated during closure, then that unit must also meet the requirements of subsection (2) of this section during post-closure care. The post-closure plan under WAC 173-303-610(8) must specify the procedures that will be used to satisfy this requirement.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-800 Permit requirements for dangerous waste management facilities. (1) The purpose of WAC 173-303-800 through 173-303-840 is to establish the requirements for permits which will allow a dangerous waste facility to operate without endangering the public health and the environment.

(2) The owner/operator of a dangerous waste facility that transfers, treats, stores, or disposes (TSD) or recycles dangerous waste must, when required by this chapter, obtain a permit in accordance with WAC 173-303-800 through 173-303-840 covering the active life, closure period, ground water protection compliance period, and for any regulated unit (as defined in WAC 173-303-040) or for any facility which at closure does not meet the removal or decontamination limits of WAC 173-303-610 (2)(b), post-closure care period, unless they demonstrate closure by removal or decontamination as provided under WAC 173-303-800 (9) and (10). If a post-closure permit is required, the permit must address applicable ground water monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements of this chapter. The denial of a permit for the active life of a dangerous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this section.

(3) TSD facility permits will be granted only if the objectives of the siting and performance standards set forth in WAC 173-303-282 and 173-303-283 are met.

(4) Permits will be issued according to the requirements of all applicable TSD facility standards.

(5) The owner/operator of a TSD facility is responsible for obtaining all other applicable federal, state, and local permits authorizing the development and operation of the TSD facility.

(6) The terms used in regard to permits which are not defined in WAC 173-303-040 have the same meanings as set forth in 40 CFR 270.2.

(7) Exemptions.

(a) A permit for an on-site cleanup action may be exempted as provided in a consent decree or order signed by the department and issued pursuant to chapter 70.105D RCW.

(b) A permit is not required for an on-site cleanup action performed by the department pursuant to chapter 70.105D RCW.

(c) Further exemptions.

(i) A person is not required to obtain a dangerous waste permit for treatment or containment activities taken during immediate response to any of the following situations:

(A) A discharge of a dangerous waste;

(B) An imminent and substantial threat of a discharge of dangerous waste;

(C) A discharge of a material that, when discharged, becomes a dangerous waste;

(D) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or muni-

tions emergency response specialist as defined in WAC 173-303-040.

(E) In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(ii) Any person who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(iii) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the wastes listed below are not required to obtain a dangerous waste permit. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.

(A) Batteries as described in WAC 173-303-573(2);

(B) Thermostats as described in WAC 173-303-573(3);
(and)

(C) Mercury-containing equipment as described in WAC 173-303-573(4); and

(D) Lamps as described in WAC 173-303-573(5).

(8) Each permit issued under this chapter will contain terms and conditions as the department determines necessary to protect human health and the environment.

(9) Closure by removal. Owners/operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under 40 CFR Part 265 standards as referenced by WAC 173-303-400 must obtain a post-closure permit unless they can demonstrate to the department that the closure met the standards for closure by removal or decontamination in WAC 173-303-650(6), 173-303-655(8), or 173-303-660(9), as appropriate, and such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed standards for closure at 40 CFR Part 264.111, as appropriate. The demonstration may be made in the following ways:

(a) If the owner/operator has submitted a Part B application for a post-closure permit, the owner/operator may request a determination, based on information contained in the application, that 40 CFR Part 264.111 standards for closure by removal were met. If the department believes that 40 CFR Part 264.111 standards were met, the department will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in subsection (10) of this section.

(b) If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the department for a determination that a post-closure permit is not required because the closure met the applicable 40 CFR Part 264.111 closure standards.

(i) The petition must include data demonstrating that standards for closure by removal or decontamination were met, or it must demonstrate that the unit closed under chapter 173-303 WAC requirements that met or exceeded the applicable 40 CFR Part 264.111 closure-by-removal standard.

(ii) The department will approve or deny the petition according to the procedures outline in subsection (10) of this section.

(10) Procedures for closure equivalency determination.

(a) If a facility owner/operator seeks an equivalency demonstration under subsection (9) of this section, the department will provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner/operator within thirty days from the date of the notice. The department will also, in response to a request or at the discretion of the department, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the 40 CFR Part 265 closure, as referenced by WAC 173-303-400, to a 40 CFR Part 264.111 closure. The department will give public notice of the hearing at least thirty days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.)

(b) The department will determine whether the 40 CFR Part 265 closure met 40 CFR Part 264.111 closure by removal or decontamination requirements within ninety days of its receipt. If the department finds that the closure did not meet the applicable 40 CFR Part 264.111 standards, the department will provide the owner/operator with a written statement of the reasons why the closure failed to meet 40 CFR Part 264.111 standards. The owner/operator may submit additional information in support of an equivalency demonstration within thirty days after receiving such written statement. The department will review any additional information submitted and make a final determination within sixty days.

(c) If the department determines that the facility did not close in accordance with 40 CFR Part 264.111 standards for closure by removal, the facility is subject to post-closure permitting requirements.

(11) The department may require a permittee or an applicant to submit information in order to establish permit conditions under subsection (8) of this section and WAC 173-303-806 (11)(d).

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-802 Permits by rule. (1) Purpose and applicability. This section provides for permit by rule for particular facilities and activities managing dangerous wastes, provided that certain conditions are met. These facilities, activities, and conditions are listed in this section. Owners and operators of facilities with permits by rule are not required to submit an application for a dangerous waste facility permit.

(2) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel which accepts dangerous waste for ocean disposal, will have a permit by rule if the owner or operator:

(a) Has a permit for ocean dumping issued under 40 CFR Part 220 (Ocean Dumping, authorized by the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. §1420 et seq.);

- (b) Complies with the conditions of that permit; and
- (c) Complies with the following dangerous waste regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-370, manifest system;

(iv) WAC 173-303-380 (1)(a), operating record;

(v) WAC 173-303-390(2), annual report; and

(vi) WAC 173-303-390(1), unmanifested waste report.

(3) Underground injection wells. Underground injection wells with an underground injection control (UIC) permit for underground injection will have a permit by rule if the owner or operator has a UIC permit issued by the department under a federally approved program for underground injection control, and complies with the conditions of the permit and requirements of 40 CFR 144.14 and applicable state waste discharge rules. For UIC permits issued after November 8, 1984, the owner or operator must comply with WAC ((473-303-646(2))) 173-303-64620, corrective action for solid waste management units; and where the UIC well is the only unit at a facility which requires a RCRA permit, complies with WAC 173-303-806 (4)(a)(xxiii). All underground injection wells must comply with WAC 173-303-060, notification and identification numbers. However, underground injection wells disposing of EHW are prohibited.

(4) Publicly owned treatment works (POTW). The owner or operator of a POTW which accepts dangerous waste for treatment, will have a permit by rule if the owner or operator:

(a) Has a National Pollutant Discharge Elimination System (NPDES) permit;

(b) Complies with the conditions of that permit;

(c) Complies with the following regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-283, performance standards;

(iv) WAC 173-303-370, manifest system;

(v) WAC 173-303-380 (1)(a), operating record;

(vi) WAC 173-303-390(2), annual report;

(vii) WAC 173-303-390(1), unmanifested waste reports; and

(viii) For NPDES permits issued after November 8, 1984, WAC ((173-303-646(2))) 173-303-64620, corrective action for solid waste management units;

(d) Accepts the waste only if it meets all federal, state, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance; and

(e) Accepts no EHW for disposal at the POTW.

(5) Totally enclosed treatment facilities or elementary neutralization or wastewater treatment units.

(a) The owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit that treats ((state only)) dangerous wastes generated on or off site((or federally regulated hazardous wastes generated on-site)) will have a permit by rule, ((except as pro-

vided)) subject to limitations in (b) and (c) of this subsection, if they:

(i) Have an NPDES permit, state waste discharge permit, pretreatment permit (or written discharge authorization from the local sewerage authority) issued by the department, or pretreatment permit (or written discharge authorization) from a local sewage utility delegated pretreatment program responsibilities pursuant to RCW 90.48.165, and the permit or authorization covers the waste stream and constituents being discharged;

(ii) Include the wastestream as a source of wastewater in the application and provide an estimate of flow, the chemical characteristics of the wastestream, whether it is a batch vs. continuous discharge, and the treatment that it will receive;

(iii) Comply with the conditions of that permit;

((iii)) (iv) Comply with the following regulations:

(A) WAC 173-303-060, notification and identification numbers;

(B) WAC 173-303-070, designation of dangerous waste;

(C) WAC 173-303-283, performance standards;

(D) WAC 173-303-300, general waste analysis;

(E) WAC 173-303-310, security;

(F) WAC 173-303-350, contingency plan and emergency procedures;

(G) WAC 173-303-360, emergencies;

(H) WAC 173-303-370, manifest system;

(I) WAC 173-303-380 (1)(d), operating record;

(J) WAC 173-303-390, facility reporting.

(b) ((The owner or operator of a wastewater treatment unit that treats federally regulated hazardous wastes received from off site will have a permit by rule, except as provided in (e) of this subsection;)) The owner or operator of a wastewater treatment unit may treat dangerous wastewater received from off site provided the wastewater is generated within the same industry and the wastewaters will be effectively treated by the wastewater treatment unit, if:

((i) The facility has received a permit (or interim status) for treatment, storage, or disposal of hazardous wastes in accordance with WAC 173-303-800, 173-303-801, and 173-303-804 through 173-303-840; and

((ii)) The owner or operator complies with (a)(i) through ((iii)) (iv) of this subsection.

(c) The department may require the owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit subject to (a) or (b) of this subsection to apply for and obtain a final facility permit or a permit modification in accordance with WAC 173-303-800 through 173-303-840, if:

(i) The owner or operator violates the general facility or performance requirements specified in (a) of this subsection;

(ii) The owner or operator is conducting other activities which require him to obtain a final facility permit;

(iii) The department determines that the general facility or performance requirements specified in (a) of this subsection, are not sufficient to protect public health or the environment and that additional requirements under this chapter are necessary to provide such protection; or

(iv) The owner or operator does not comply with applicable local, state or federal requirements established pursuant

to sections 402 or 307(b) of the Federal Clean Water Act, or chapter 90.48 RCW.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-803 Permit application requirements.

(1) **Applicability.** The requirements in this section apply to both interim and final status facilities. In addition to this section, the applicable provisions of WAC 173-303-800, 173-303-805, and 173-303-806 must be followed. Persons currently authorized with interim status must apply for permits when required by the department (see requirements at WAC 173-303-806).

(2) **Existing dangerous waste management facilities and interim status qualifications.**

(a) Owners and operators of existing dangerous waste management facilities or of dangerous waste management facilities in existence on the effective date of statutory or regulatory amendments under the Hazardous Waste Management Act and RCRA that render the facility subject to the requirement to have a dangerous waste permit must submit part A of their permit application no later than:

(i) Six months after the date of publication of regulations that first require them to comply with the standards set forth in WAC 173-303-400, 173-303-505, 173-303-520, or 173-303-525, or 40 CFR Part 266 Subpart H; or

(ii) Thirty days after the date they first become subject to the standards set forth in WAC 173-303-400, 173-303-505, 173-303-520, or 173-303-525, or 40 CFR Part 266 Subpart H 40 CFR, whichever first occurs;

(iii) For generators generating greater than 220 pounds but less than 2200 pounds of dangerous waste in a calendar month and treats, stores, or disposes of these wastes on-site, by March 24, 1987.

(b) The owner or operator of an existing dangerous waste management facility may be required to submit part B of their permit application. The department may require submission of part B if the department has received interim or final authorization; if not, the EPA Regional Administrator may require submission of part B. Any owner or operator will be allowed at least six months from the date of request to submit part B of the application. Any owner or operator of an existing dangerous waste management facility may voluntarily submit part B of the application at any time. Notwithstanding the above, any owner or operator of an existing dangerous waste management facility must submit a part B permit application in accordance with the dates specified in WAC 173-303-805(8). Any owner or operator of a land disposal facility in existence on the effective date of statutory or regulatory amendments under the Hazardous Waste Management Act or RCRA that render the facility subject to the requirement to have an RCRA permit must submit a part B application in accordance with the dates specified in WAC 173-303-805(8).

(c) Failure to furnish a requested part B application on time, or to furnish in full the information required by the part B application, is grounds for termination of interim status under WAC 173-303-840.

(3) **Contents of part A of the permit application.** Part A of the final facility permit application must include the following information:

(a) The activities conducted by the applicant that require it to obtain a permit under the Hazardous Waste Management Act;

(b) Name, mailing address, and location, including latitude and longitude of the facility for which the application is submitted;

(c) Up to four ((SIC)) **NAICS** codes that best reflect the principal products or services provided by the facility;

(d) The operator's name, address, telephone number, ownership status, and status as federal, state, private, public, or other entity;

(e) The name, address, and phone number of the owner of the facility;

(f) Whether the facility is located on tribal lands;

(g) An indication of whether the facility is new or existing and whether it is a first or revised application;

(h) For existing facilities:

(i) A scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas; and

(ii) Photographs of the facility clearly delineating all existing structures, existing treatment, storage, and disposal areas, and sites of future treatment, storage, and disposal areas;

(i) A description of the processes to be used for treating, storing, and disposing of dangerous waste, and the design capacity of these items;

(j) A specification of the dangerous wastes listed or designated under WAC 173-303-070 to be treated, stored, or disposed of at the facility, an estimate of the quantity of those wastes to be treated, stored, or disposed annually, and a general description of the processes to be used for the wastes;

(k) A listing of all permits or construction approvals received or applied for under any of the following programs:

(i) Hazardous waste management program;

(ii) UIC program under the SWDA;

(iii) NPDES program under the CWA;

(iv) Prevention of Significant Deterioration (PSD) program under the Clean Air Act;

(v) Nonattainment program under the Clean Air Act;

(vi) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

(vii) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

(viii) Dredge or fill permits under section 404 of the CWA;

(ix) Other relevant environmental permits, including state permits;

(l) A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its dangerous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water

wells listed in public records or otherwise known to the applicant within 1/4 mile of the facility property boundary;

(m) A brief description of the nature of the business;

(n) For hazardous debris, a description of the debris category(ies) and contaminant category(ies) to be treated, stored, or disposed of at the facility.

(4) New TSD facilities.

(a) Except as provided in 40 CFR 270.10 (f)(3) for TSCA facilities, no person may begin physical construction of a new TSD facility without having submitted parts A and B of the permit application and having received a finally effective final facility permit.

(b) An application for a permit for a new TSD facility (including both parts A and B) may be filed any time after adoption of those standards in WAC 173-303-630 that apply to such a facility. The application must be filed with the EPA Regional Administrator if at the time of application the state in which the new TSD facility is proposed to be located has not received interim or final authorization for permitting such facility; otherwise it must be filed with the department. Except as provided in paragraph 40 CFR 270.10 (f)(3), all applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(5)(a) Updating permit applications.

(i) If any owner or operator of a dangerous waste management facility has filed part A of a permit application and has not yet filed part B, the owner or operator must file an amended part A application:

(A) With the EPA Regional Administrator if the department has not obtained interim authorization or final authorization, within six months after the adoption of revised regulations under 40 CFR Part 261 listing or identifying additional hazardous wastes, if the facility is treating, storing, or disposing of any of those newly listed or identified wastes;

(B) With the department, if it has obtained interim authorization or final authorization, no later than the effective date of regulatory provisions listing or designating wastes as dangerous in addition to those listed or designated under the previously approved state program, if the facility is treating, storing, or disposing of any of those newly listed or designated wastes; or

(C) As necessary to comply with provisions of WAC 173-303-805(7) for changes during interim status. Revised part A applications necessary to comply with the provisions of WAC 173-303-805(7) must be filed with the department.

(b) The owner or operator of a facility who fails to comply with the updating requirements of (a)(i) of this subsection does not receive interim status as to the wastes not covered by duly filed part A applications.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-805 Interim status permits. (1)(a) Applicability. This section applies to all facilities eligible for an interim status permit. When a facility is owned by one person but is operated by another person, it is the operator's duty to qualify for interim status, except that the owner must also sign an interim status application. Prior to submittal of an

interim status permit application the requirements of WAC 173-303-281 must be met.

(b) Any person who owns or operates an "existing dangerous TSD facility" or a facility in existence on the effective date of statutory or regulatory amendments under the Hazardous Waste Management Act or RCRA that renders the facility subject to the requirement to have a dangerous waste permit will have interim status and will be treated as having been issued a permit to the extent he or she has:

(i) Complied with the requirements of WAC 173-303-060 pertaining to notification of dangerous waste activity.

(Comment: Some existing facilities may not be required to file a notification under WAC 173-303-060. These facilities may qualify for interim status by meeting (b)(ii) of this subsection.)

(ii) Complied with the requirements of WAC 173-303-803 governing submission of part A applications.

(c) This subsection (1) will not apply to any facility that has been previously denied a final facility permit or if authority to operate the facility under the Hazardous Waste Management Act has been previously terminated.

(2) Failure to qualify for interim status. If the department has reason to believe upon examination of a Part A application that it fails to provide the required information, it will notify the owner or operator in writing of the apparent deficiency. Such notice will specify the grounds for the department's belief that the application is deficient. The owner or operator will have thirty days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, the department determines that the application is deficient it may take appropriate enforcement action.

(3) Interim status for facilities under RCRA interim status. Any existing facility operating under interim status gained under section 3005 of RCRA will be deemed to have an interim status permit under this chapter provided that the owner/operator complies with the applicable requirements of WAC 173-303-400 and this section.

(4) Interim status for facilities managing state-designated (non-RCRA) dangerous wastes. Any existing facility which does not satisfy subsection (3) of this section, but which is only managing dangerous wastes that are not hazardous wastes under 40 CFR Part 261, will be deemed to have an interim status permit provided that the owner/operator of the facility has complied with the notification requirements of WAC 173-303-060 by May 11, 1982 and has submitted Part A of his permit application by August 9, 1982. If an existing facility becomes subject to this chapter due to amendments to this chapter and the facility was not previously subject to this chapter, then the owner/operator of an existing facility may qualify for an interim status permit by complying with the notification requirements of WAC 173-303-060 within three months, and submitting Part A of his permit application within six months, after the adoption date of the amendments which cause the facility to be subject to the requirements of this chapter. Facilities qualifying for interim status under this subsection will not be deemed to have interim status under section 3005 of RCRA, and may only manage non-RCRA wastes until they either qualify separately for interim status under section 3005 of RCRA or

receive a final status facility permit allowing them to manage RCRA wastes.

(5) Maintaining the interim status permit.

(a) Timely notification and submission of a Part A application qualifies the owner/operator of the existing TSD facility for the interim status permit, until the department terminates interim status pursuant to subsection (8) of this section.

(b) Interim status for the existing TSD facility will be maintained while the department makes final administrative disposition of a final facility permit pursuant to WAC 173-303-806 if:

(i) The owner/operator has submitted his final facility permit application (as described in WAC 173-303-806) within six months of the written request by the department to submit such application; and

(ii) Grounds for terminating interim status (as described in subsection (8) of this section) do not exist.

(c) The owner/operator of an interim status facility must update his Part A whenever he is managing wastes that are newly regulated under this chapter, and as necessary to comply with subsection (7) of this section. Failure to comply with this updating requirement is a violation of interim status.

(6) Prohibitions for interim status permits. Facilities with an interim status permit must not:

(a) Treat, store, or dispose of dangerous waste not specified in Part A of the permit application;

(b) Employ processes not specified in Part A of the permit application; or

(c) Exceed the design capacities specified in Part A of the permit application.

(7) Changes during interim status.

(a) Except as provided in (b) of this subsection, the owner or operator of an interim status facility may make the following changes at the facility:

(i) Treatment, storage, or disposal of new dangerous wastes not previously identified in Part A of the permit application (and, in the case of newly listed or identified wastes, addition of the units being used to treat, store, or dispose of the dangerous wastes on the effective date of the listing or identification) if the owner or operator submits a revised Part A permit application prior to such treatment, storage, or disposal (along with a justification detailing the equipment and process or processes that the owner or operator will use to treat, store, or dispose of the new dangerous wastes) and if the department does not explicitly deny the changes within sixty days of receipt of the revised application;

(ii) Increases in the design capacity of processes used at the facility if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change), the requirements of WAC 173-303-281 are met, and the department approves the changes because:

(A) There is a lack of available treatment, storage, or disposal capacity at other dangerous waste management facilities; or

(B) The change is necessary to comply with a federal, state, or local requirement.

(iii) Changes in the processes for the treatment, storage, or disposal of dangerous waste or addition of processes if the owner or operator submits a revised Part A permit application

prior to such change (along with a justification explaining the need for the change) and the department approves the change because:

(A) The change is necessary to prevent a threat to human health and the environment because of an emergency situation; or

(B) The change is necessary to comply with a federal, state, or local requirement.

(iv) Changes in the ownership or operational control of a facility if the new owner or operator submits a revised Part A permit application no later than ninety days prior to the scheduled change. When a transfer of operational control of a facility occurs, the old owner or operator must comply with the interim status financial requirements of 40 CFR Part 265, Subpart H (as referenced in WAC 173-303-400), until the new owner or operator has demonstrated to the department that he is complying with the financial requirements. Upon demonstration to the department by the new owner or operator of compliance with the interim status financial requirements, the department will notify the old owner or operator in writing that he no longer needs to comply with the interim status financial requirements as of the date of demonstration. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change in ownership or operational control of the facility. All other interim status duties are transferred effective immediately upon the date of the change in ownership or operational control of the facility.

(v) Changes made in accordance with an interim status corrective action order issued by EPA under section 3008(h) of RCRA or other federal authority, including an order or consent decree issued pursuant to WAC (~~(173-303-646(2) or (3))~~) 173-303-64620 or 173-303-64630, by the department under chapter 70.105 RCW or other state authority, or by a court in a judicial action brought by EPA or by the department. Changes under this subsection (7)(a)(v) are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(vi) Addition of newly regulated units for the treatment, storage, or disposal of dangerous waste if the owner or operator submits a revised Part A permit application on or before the date on which the unit becomes subject to the new requirements.

(b) Except as specifically allowed under this subsection (7)(b), changes listed under (a) of this subsection may not be made if they amount to reconstruction of the dangerous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new dangerous waste management facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

(i) Changes made solely for the purposes of complying with the requirements of WAC 173-303-640(4) for tanks and ancillary equipment.

(ii) If necessary to comply with federal, state, or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of section 3004(o) of RCRA.

(iii) Changes that are necessary to allow owners or operators to continue handling newly listed or identified dangerous wastes that have been treated, stored, or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

(iv) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.

(v) Changes necessary to comply with an interim status corrective action order issued by EPA under section 3008(h) or other federal authority, by the department under chapter 70.105 RCW or other state authority, or by a court in a judicial proceeding brought by EPA or an authorized state, provided that such changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(vi) Changes to treat or store, in tanks, containers, or containment buildings hazardous wastes subject to land disposal restrictions imposed by 40 CFR Part 268 or RCRA section 3004, provided that such changes are made solely for the purpose of complying with 40 CFR Part 268 or RCRA section 3004.

(vii) Addition of newly regulated units under (a)(vi) of this subsection.

(viii) Changes necessary to comply with standards under 40 CFR part 63, subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors, which are incorporated by reference at WAC 173-400-075 (5)(a).

(8) Termination of interim status permit. The following are causes for terminating an interim status permit, or for denying a revised permit application:

(a) Final administrative disposition of a final facility permit application is made pursuant to WAC 173-303-806;

(b) When the department on examination or reexamination of a Part A application determines that it fails to meet the applicable standards of this chapter, it may notify the owner or operator that the application is deficient and that the interim status permit has been revoked. The owner or operator will then be subject to enforcement for operating without a permit;

(c) Failure to submit a requested Part B application on time, or to provide in full the information required in the Part B application;

(d) Violation of applicable interim status standards;

(e) A determination that the permit applicant has failed to satisfy the performance standards of WAC 173-303-283;

(f) For owners or operators of each land disposal facility which has been granted interim status prior to November 8, 1984, interim status terminated on November 8, 1985, unless:

(i) The owner or operator submits a Part B application for a permit for such facility prior to that date; and

(ii) The owner or operator certifies that such facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(g) For owners or operators of each land disposal facility which is in existence on the effective date of statutory or regulatory amendments under the Hazardous Waste Management Act that render the facility subject to the requirement to have a final facility permit and which is granted interim sta-

tus, interim status terminates twelve months after the date on which the facility first becomes subject to such permit requirement unless the owner or operator of such facility:

(i) Submits a Part B application for a final facility permit for such facility before the date twelve months after the date on which the facility first becomes subject to such permit requirement; and

(ii) Certifies that such facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(h) For owners or operators of any land disposal unit that is granted authority to operate under subsection (7)(a)(i), (ii) or (iii) of this section, interim status terminates on the date twelve months after the effective date of such requirement, unless the owner or operator certifies that such unit is in compliance with all applicable ground water monitoring and financial responsibility requirements;

(i) For owners and operators of each incinerator facility which achieved interim status prior to November 8, 1984, interim status terminated on November 8, 1989, unless the owner or operator of the facility submitted a Part B application for a final facility permit for an incinerator facility by November 8, 1986; or

(j) For owners or operators of any facility (other than a land disposal or an incinerator facility) which has achieved interim status prior to November 8, 1984, interim status terminated on November 8, 1992, unless the owner or operator of the facility submitted a Part B application for a final facility permit for the facility by November 8, 1988.

(9) Reserve.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-806 Final facility permits. (1) Applicability. This section applies to all dangerous waste facilities required to have a final facility permit. The final facility permit requirements are applicable to:

(a) Final status TSD facilities; and

(b) Certain recycling facilities that are not exempt from the permit requirements.

(2)(a) Application. Any person subject to the permit requirements of this section who intends to operate a new TSD facility must comply with WAC 173-303-281 and apply for a final facility permit. The department may, at any time, require the owner or operator of an existing TSD facility to apply for a final facility permit. Such owner or operator will be allowed one hundred eighty days to submit his application; the department may extend the length of the application period if it finds that there are good reasons to do so. The owner or operator of an existing TSD facility may voluntarily apply for a final facility permit at any time. Any person seeking a final facility permit must complete, sign, and submit an application to the department. An application must consist of a Part A permit form (which can be obtained from the department), and the contents of Part B as specified in subsection (4) of this section. The requirements for the contents of a part A permit application are at WAC 173-303-803(4).

(b) Persons covered by permits by rule (WAC 173-303-802) need not apply. Procedures for applications, issuance

and administration of emergency permits are found exclusively in WAC 173-303-804. Procedures for application, issuance and administration of research, development, and demonstration permits are found exclusively in WAC 173-303-809.

(3) Effective regulations. A final facility permit will include all applicable requirements of this chapter which are in effect on the date that the permit is issued by the department. WAC 173-303-840(7) provides a means for reopening permit proceedings at the discretion of the department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. Any other changes to the final facility permit will be in accordance with the permit modification requirements of WAC 173-303-830.

(4) Contents of Part B. Part B of a permit application must consist of the information required in (a) through (m) of this subsection.

(a) General requirements. Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility. The Part B information requirements presented in (a) through (h) of this subsection, reflect the standards promulgated in WAC 173-303-600. These information requirements are necessary in order for the department to determine compliance with WAC 173-303-600 through 173-303-670. If owners and operators of TSD facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. Information required in Part B must be submitted to the department and signed in accordance with requirements in WAC 173-303-810(12). Certain technical data, such as design drawings and specifications, and engineering studies must be certified by a registered professional engineer. The following information is required for all TSD facilities, except as WAC 173-303-600(3) provides otherwise.

(i) A general description of the facility.

(ii) Chemical, biological, and physical analyses of the dangerous waste and hazardous debris to be handled at the facility. At a minimum, these analyses must contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with WAC 173-303-600.

(iii) A copy of the waste analysis plan required by WAC 173-303-300(5) and, if applicable WAC 173-303-300 (5)(g).

(iv) A description of the security procedures and equipment required by WAC 173-303-310, or a justification demonstrating the reasons for requesting a waiver of this requirement.

(v) A copy of the general inspection schedule required by WAC 173-303-320(2): Include where applicable, as part of the inspection schedule, specific requirements in WAC 173-303-395 (1)(d), 173-303-630(6), 173-303-640 (4)(a)(i) and (6), 173-303-650(4), 173-303-655(4), 173-303-660 (4) and (5), 173-303-665(4), 173-303-670(7), and 173-303-680(3), and 40 CFR 264.1033, 264.1035, 264.1052, 264.1053, 264.1058, 264.1064, 264.1067, 264.1084, 264.1085, 264.1086, and 264.1088.

(vi) A justification of any request for a waiver(s) of the preparedness and prevention requirements of WAC 173-303-340, or a description of the procedures used to comply with these requirements.

(vii) A copy of the contingency plan required by WAC 173-303-350: Include, where applicable, as part of the contingency plan, specific requirements in WAC 173-303-640(7), 173-303-650(5) and 173-303-660(6).

(viii) A description of procedures, structures, or equipment used at the facility to:

(A) Prevent hazards and contain spills in unloading/loading operations (for example, ramps, berms, pavement, special forklifts);

(B) Prevent runoff from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(C) Prevent contamination of water supplies;

(D) Mitigate effects of equipment failure and power outages;

(E) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing); and

(F) Prevent releases to the atmosphere.

(ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with WAC 173-303-395 including documentation demonstrating compliance with WAC 173-303-395 (1)(c).

(x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

(xi) Seismic risk consideration. The owner/operator of a proposed facility or expansion of an existing facility must identify the seismic risk zone in which the facility is intended to be located. Where state or local maps are not available, United States Geological Survey Open File Report number 82-1033 may be used to identify seismic risk zones. The owner/operator must demonstrate that the facility can and will be designed to resist seismic ground motion and that the design is sufficient to withstand the maximum horizontal acceleration of a design earthquake specified in the demonstration.

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with WAC 173-303-330. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in WAC 173-303-330 (1)(d).

(xiii) A copy of the closure plan and, where applicable, the post-closure plan required by WAC 173-303-610 (3) and (8). Include, where applicable, as part of the plans, specific requirements in WAC 173-303-630(10), 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), and 173-303-680 (2) and (4).

(xiv) For dangerous waste disposal units that have been closed, documentation that notices required under WAC 173-303-610(10) have been filed.

(xv) The most recent closure cost estimate for the facility prepared in accordance with WAC 173-303-620(3) and a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(4). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvi) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with WAC 173-303-620(5) plus a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(6). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of WAC 173-303-620(8). For a new facility, documentation showing the amount of insurance meeting the specification of WAC 173-303-620 (8)(a) and, if applicable, WAC 173-303-620 (8)(b), that the owner or operator plans to have in effect before initial receipt of dangerous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in WAC 173-303-620 (8)(c).

(xviii) A topographic map showing a distance of one thousand feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of TSD facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map must clearly show the following:

- (A) Map scale and date;
- (B) One hundred-year floodplain area;
- (C) Surface waters including intermittent streams;
- (D) Surrounding land uses (residential, commercial, agricultural, recreational);
- (E) A wind rose (i.e., prevailing windspeed and direction);
- (F) Orientation of the map (north arrow);
- (G) Legal boundaries of the TSD facility site;
- (H) Access control (fences, gates);
- (I) Injection and withdrawal wells both on-site and off-site;
- (J) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, runoff control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);
- (K) Barriers for drainage or flood control; and
- (L) Location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed (include equipment clean-up areas).

(Note - For large TSD facilities the department will allow the use of other scales on a case-by-case basis.)

(xix) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state or federal laws as required.

(xx) Additional information requirements. The following additional information regarding protection of ground water is required from owners or operators of dangerous waste facilities containing a regulated unit except as otherwise provided in WAC 173-303-645 (1)(b):

(A) A summary of the ground water monitoring data obtained during the interim status period under 40 CFR 265.90 through 265.94, where applicable;

(B) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

(C) On the topographic map required under (a)(xviii) of this subsection, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under WAC 173-303-645(6), the proposed location of ground water monitoring wells as required under WAC 173-303-645(8), and, to the extent possible, the information required in (a)(xx)(B) of this subsection;

(D) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(I) Delineates the extent of the plume on the topographic map required under (a)(xviii) of this subsection;

(II) Identifies the concentration of each constituent throughout the plume or identifies the maximum concentrations of each constituent in the plume. (Constituents are those listed in Appendix IX of 40 CFR Part 264, and any other constituents not listed there which have caused a managed waste to be regulated under this chapter.);

(E) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of WAC 173-303-645(8);

(F) If the presence of dangerous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of WAC 173-303-645(9). This submission must address the following items specified under WAC 173-303-645(9):

(I) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of dangerous constituents in the ground water;

(II) A proposed ground water monitoring system;

(III) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(IV) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;

(G) If the presence of dangerous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit

sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of WAC 173-303-645(11) except as provided in WAC 173-303-645 (9)(h)(v). Alternatively, the owner or operator can obtain written authorization in advance from the department to submit a proposed permit schedule for development and submittal of such information. To demonstrate compliance with WAC 173-303-645(10), the owner or operator must address the following items:

(I) A description of the wastes previously handled at the facility;

(II) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(III) A list of constituents and parameters for which compliance monitoring will be undertaken in accordance with WAC 173-303-645 (8) and (10);

(IV) Proposed concentration limits for each dangerous constituent and parameter, based on the criteria set forth in WAC 173-303-645 (5)(a), including a justification for establishing any alternate concentration limits;

(V) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of WAC 173-303-645(8); and

(VI) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data; and

(H) If dangerous constituents or parameters have been measured in the ground water which exceed the concentration limits established under WAC 173-303-645(5), Table 1, or if ground water monitoring conducted at the time of permit application under 40 CFR 265.90 through 265.94 at the waste boundary indicates the presence of dangerous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of WAC 173-303-645(11). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in WAC 173-303-645(5). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of WAC 173-303-645 (10) and (a)(xx)(F) of this subsection. To demonstrate compliance with WAC 173-303-645(11), the owner or operator must address, at a minimum, the following items:

(I) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(II) The concentration limit for each dangerous constituent and parameter found in the ground water as set forth in WAC 173-303-645(5);

(III) Detailed plans and an engineering report describing the corrective action to be taken;

(IV) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action; and

(V) The permit may contain a schedule for submittal of the information required in (a)(xx)(H)(III) and (IV) of this subsection, provided the owner or operator obtains written authorization from the department prior to submittal of the complete permit application.

(xxi) Contingent ground water protection program. The following actions are required for owners or operators of proposed land-based facilities and may be required for owners/operators of existing land-based facilities, except as provided in WAC 173-303-645 (1)(b).

(A) Contingent ground water protection program. The owner or operator must develop a contingent ground water protection program. The purpose of this program will be to prevent the migration of dangerous waste or dangerous waste constituents from waste management units to the nearest hydraulically downgradient receptor at any time during the life of the facility. For the purposes of this subsection, the downgradient receptor will be the facility property line, perennial surface water or domestic well, whichever is nearest to the dangerous waste management unit. The contingent ground water protection program must at a minimum:

(I) Define the local and regional hydrogeologic characteristics. The contingent ground water protection program must be based on a sufficient understanding of site geology, hydrology, and other factors to allow evaluation of its adequacy by the department. Site characterization must be performed in sufficient detail to provide, at a minimum, the following information: Site geostratigraphy; site hydrostratigraphy; identification of aquifers, aquitards, and aquicludes; flow models for each stratum (i.e., porous media or fracture flow); the distribution of vertical and horizontal hydraulic conductivity; effective porosity; horizontal and vertical hydraulic gradients; ground water travel time to receptors; and heterogeneity for each stratigraphic unit. Site interpretative models must include ranges of tested values: The provisions of WAC 173-303-806 (4)(a)(xx) and 173-303-645, must be used as guidance in the development of the contingent ground water protection program.

(II) Identify the range of potential release scenarios that could occur during facility operation and the post-closure care period. The scenarios must incorporate the intended design(s) of the dangerous waste management unit(s), wastes to be placed in the dangerous waste management unit(s), waste and leachate chemistry, waste, and soil and rock geochemical interactions, and the results of site characterization pursuant to WAC 173-303-806 (4)(a)(xx) and (xxi);

(III) Include specific physical action to be taken if dangerous waste or dangerous waste constituents are detected in one or more of the monitoring wells. The physical actions must be based upon engineering feasibility studies describing remedial actions established from site specific conditions and waste features. Such actions may include installation of a pump and treat system between the monitoring well and the receptor or installation of a section of slurry wall to decrease ground water travel times. The description of the systems must also provide how the remediation system will achieve cleanup, its efficiency, and the time frames involved;

(IV) Incorporate the design, construction, and sampling methods outlined in WAC 173-303-645 (8)(c), (d), (e), (f), and (g);

(V) Demonstrate to the satisfaction of the department that the owner/operator of the dangerous waste management facility has the financial capability to implement the proposed ground water protection plan; and

(VI) Include reporting procedures to the department.

(B) The response actions identified in WAC 173-303-806 (4)(a)(xxi)(A)(III) must be activated if the presence of dangerous waste or dangerous waste constituents have been detected at the point of compliance in accordance with WAC 173-303-645 (9)(g), and must continue until the concentration of dangerous waste or dangerous waste constituents under WAC 173-303-645(4) are reduced to levels below their respective concentration limits specified in WAC 173-303-645(5).

(C) If the owner/operator does not demonstrate that the ground water protection program will prevent the migration of dangerous waste or its constituents to the nearest receptor, the department will require corrections to be made in the protection program, increase setbacks from the nearest receptor, or deny the permit.

(xxii) Additional requirements for incineration facilities. The following actions regarding the protection of human health and the environment must be taken by owners/operators of proposed hazardous waste incineration facilities and may be required for owners or operators of existing incineration facilities.

(A) Ambient monitoring program. The owner/operator will be required to develop an ambient monitoring program. The purpose of this ambient monitoring program will be to: Gather baseline environmental information characterizing on-site and off-site environmental conditions prior to facility operation; and, to identify and measure changes in the environment which may be linked to the construction and operation of the facility. The ambient monitoring program must, at a minimum:

(I) Include a characterization of facility emission sources and pathways of contaminant transport.

(II) Characterize local and regional ecosystems, including agricultural, and their sensitivity to the potential contaminants from the facility.

(III) Incorporate the findings of the environmental impact statement's health risk assessment and/or other assessments specific to the proposal or available to the scientific community regarding emissions from dangerous waste management facilities and their potential human health and environmental effects.

(IV) Identify sensitive indicator plants and animals for biomonitoring, identify specific chemical constituents of concern, sampling locations, sampling frequency, sampling and analytical methods, chain of custody procedures, quality assurance/quality control procedures, reporting times, recordkeeping procedures, and data evaluation procedures.

(B) Environmental review procedures. The owner/operator must establish procedures to allow for public review of facility operation and all monitoring data required by the facility's permit. In developing this process, the owner/operator must, at a minimum:

(I) Coordinate this effort with the public and interested local organizations;

(II) Identify the informational needs of the community and develop a public information process which meets these needs; and

(III) Develop procedures allowing full access by the public to all monitoring data required by the permit.

(C) Impact mitigation plan. Prior to the department issuing a permit, the owner/operator must submit an impact mitigation plan which demonstrates to the satisfaction of the department that the owner/operator will mitigate all probable significant adverse impacts, including economic, due to facility location and operations. The owner/operator must use as a basis for identifying probable significant adverse economic impacts those probable economic impacts identified during a public review process, such as the environmental impact statement scoping process, if applicable.

The plan must include, but is not limited to, a description of what the owner/operator will do to reduce or prevent any probable significant impacts before they occur, to mitigate such impacts should they occur, and to ensure the owner/operator has and will have the financial capability to implement such preventative and mitigative measures. Mitigation measures may include, as an element, financial compensation to adversely affected parties.

This plan may be submitted with environmental reports the department requires for compliance with the State Environmental Policy Act, with the written citizen proponent negotiation report and agreements, or with the Part B permit application. If the plan does not demonstrate that the owner/operator is capable of adequately mitigating the identified probable significant adverse economic impacts, the department will require modification of the plan or of the proposed facility location, or will deny the permit application. The department must be satisfied with the plan prior to the issuance of the permit.

(xxiii) Information requirements for solid waste management units.

(A) The following information is required for each solid waste management unit:

(I) The location of the unit on the topographic map required under (a)(xviii) of this subsection.

(II) Designation of type of unit.

(III) General dimensions and structural description (supply any available drawings).

(IV) Time frame over which the unit was operated.

(V) Specification of all wastes that have been managed in the unit, to the extent available.

(B) The owner/operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of dangerous wastes or dangerous constituents from such unit or units.

(C) The owner/operator must conduct and provide the results of sampling and analysis of ground water, landsurface, and subsurface strata, surface water, or air, which may include the installation of wells, where the department determines it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

WAC 173-303-806 (4)(a)(xxiv):

(xxiv) Information requirements for known releases.

(A) In order to provide for corrective action necessary to protect human health and the environment, the following information is required for all known significant releases of dangerous waste and dangerous constituents (as defined by WAC ((~~173-303-646-(2)(e)~~) 173-303-64610(4)) at, and from, the facility. A significant release is a release which has affected or has the potential to affect human health or the environment at or beyond the facility.

(I) The location of the release on the topographic map required under (a)(xviii) of this subsection.

(II) General dimensions of the release and any relevant structural description. For example, if the release is from a storage tank, provide a structural description of the tank. Supply any available drawings.

(III) Time frame over which the release occurred.

(IV) Specification of all dangerous waste or dangerous constituents (as defined by WAC ((~~173-303-646-(2)(e)~~) 173-303-64610(4)) present in the release, to the extent available.

(xxv) A summary of the preapplication meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under WAC 173-303-281 (3)(c).

(xxvi) For land disposal facilities, if a case-by-case extension has been approved under 40 CFR 268.5 or a petition has been approved under 40 CFR 268.6, a copy of the notice of approval for the extension or petition is required.

(b) Specific Part B information requirements for containers. Except as otherwise provided in WAC 173-303-600(3), owners or operators of facilities that store containers of dangerous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following:

(A) Basic design parameters, dimensions, and materials of construction including allowance for a twenty-five-year, twenty-four-hour storm;

(B) How the design promotes positive drainage control or how containers are kept from contact with standing liquids in the containment system;

(C) Capacity of the containment system relative to the volume of the largest container to be stored;

(D) Provisions for preventing or managing run-on;

(E) How accumulated liquids can be analyzed and removed to prevent overflow; and

(F) A description of the building or other protective covering for EHW containers;

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with WAC 173-303-630 (7)(c), including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) A description of the procedures for labeling containers;

(iv) Sketches, drawings, or data demonstrating compliance with WAC 173-303-630(8) (location of buffer zone and containers holding ignitable or reactive wastes) and WAC 173-303-630 (9)(c) (location of incompatible wastes), where applicable;

(v) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with WAC 173-303-630 (9)(a) and (b), and 173-303-395 (1)(b) and (c); and

(vi) Information on air emission control equipment as required in (m) of this subsection.

(c) Specific Part B information requirements for tanks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use tanks to store or treat dangerous waste must provide the following information:

(i) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling dangerous waste of each tank system, as required under WAC 173-303-640 (2) and (3);

(ii) Dimensions and capacity of each tank;

(iii) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(iv) A diagram of piping, instrumentation, and process flow for each tank system;

(v) A description of materials and equipment used to provide external corrosion protection, as required under WAC 173-303-640 (3)(a)(iii)(B);

(vi) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with WAC 173-303-640 (3)(b), (c), (d), and (e);

(vii) Detailed plans and a description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of WAC 173-303-640 (4)(a), (b), (c), (d), (e), and (f);

(viii) For tank systems for which a variance from the requirements of WAC 173-303-640(4) is sought (as provided by WAC 173-303-640 (4)(g)):

(A) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous waste or dangerous constituents into the ground water or surface water during the life of the facility; or

(B) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment.

(ix) Description of controls and practices to prevent spills and overflows, as required under WAC 173-303-640 (5)(b);

(x) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of WAC 173-303-640 (9) and (10);

(xi) A description of the marking and/or labeling of tanks;

(xii) Tank design to prevent escape of vapors and emissions of acutely or chronically toxic (upon inhalation) EHW; and

PROPOSED

(xiii) Information on air emission control equipment as required in (m) of this subsection.

(d) Specific Part B information requirements for surface impoundments. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store, treat, or dispose of dangerous waste in surface impoundments must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is designed, and is or will be constructed, operated and maintained to meet the requirements of WAC 173-303-650 (2)(j), (10), (11), and 173-303-335, addressing the following items:

(A) The liner system (except for an existing portion of a surface impoundment), including the certification required by WAC 173-303-650 (2)(a)(i)(D) for EHW management. If an exemption from the requirement for a liner is sought as provided by WAC 173-303-650 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(B) Prevention of overtopping;

(C) Structural integrity of dikes;

(D) The double liner and leak (leachate) detection, collection, and removal system, if the surface impoundment must meet the requirements of WAC 173-303-650 (2)(j). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-650 (2)(k), (l), or (m), submit appropriate information;

(E) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(F) The construction quality assurance (CQA) plan if required under WAC 173-303-335; and

(G) Proposed action leakage rate, with rationale, if required under WAC 173-303-650(10), and response action plan, if required under WAC 173-303-650(11).

(iii) Reserve.

(iv) A description of how each surface impoundment, including the double liner system, leak detection system, cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of WAC 173-303-650 (4)(a), (b), and (d). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under WAC 173-303-650 (4)(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under WAC 173-303-650 (5)(b) and (c). This information should be

included in the contingency plan submitted under (a)(vii) of this subsection;

(vii) A description of how dangerous waste residues and contaminated materials will be removed from the unit at closure, as required under WAC 173-303-650 (6)(a)(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-650 (6)(a)(ii) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how WAC 173-303-650(7) will be complied with;

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how WAC 173-303-650(8) will be complied with;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how the surface impoundment is or will be designed to meet the requirements of WAC 173-303-650(9); and

(xi) Information on air emission control equipment as required in (m) of this subsection.

(e) Specific Part B information requirements for waste piles. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store or treat dangerous waste in waste piles must provide the following additional information:

(i) A list of dangerous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to WAC 173-303-660(2), and 173-303-645 as provided by WAC 173-303-660 (1)(c), an explanation of how the standards of WAC 173-303-660 (1)(c) will be complied with;

(iii) Detailed plans and an engineering report describing how the waste pile is designed, and is or will be constructed, operated, and maintained to meet the requirements of WAC 173-303-335, 173-303-660 (2)(j), (11) and (12), addressing the following items:

(A)(I) The liner system (except for an existing portion of a pile) if the waste pile must meet the requirements of WAC 173-303-660(2), including the licensed engineer's certification when required by WAC 173-303-660 (2)(c). If an exemption from the requirement for a liner is sought, as provided by WAC 173-303-660 (2)(d), submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(II) The double liner and leak (leachate) detection, collection, and removal system, if the waste pile must meet the requirements of WAC 173-303-660 (2)(j). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-660 (2)(k), (l), or (m), submit appropriate information;

(III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report

explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(IV) The construction quality assurance (CQA) plan if required under WAC 173-303-335;

(V) Proposed action leakage rate, with rationale, if required under WAC 173-303-660(3), and response action plan, if required under WAC 173-303-660(4);

(B) Control of run-on;

(C) Control of runoff;

(D) Management of collection and holding units associated with run-on and runoff control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iv) Reserve.

(v) A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system and appurtenances for control of run-on and runoff, will be inspected in order to meet the requirements of WAC 173-303-660(5). This information should be included in the inspection plan submitted under (a)(v) of this subsection. If an exemption is sought to WAC 173-303-645 pursuant to WAC 173-303-660(4), describe in the inspection plan how the inspection requirements of WAC 173-303-660 (4)(a)(iii) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of WAC 173-303-660(7) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how WAC 173-303-660(8) will be complied with;

(ix) A description of how dangerous waste, waste residues and contaminated materials will be removed from the waste pile at closure, as required under WAC 173-303-660 (9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665 (6)(a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a waste pile that is not enclosed (as defined in WAC 173-303-660 (1)(c)) is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(10).

(f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) and subsection (4)(f)(v) of this section provide(s) otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.

(i) When seeking an exemption under WAC 173-303-670 (1)(b) (ignitable or reactive wastes only):

(A) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is ignitable; or

(B) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is reactive for characteristics other than those listed in WAC 173-303-090 (7)(a)(iv) and (v), and will not be burned when other dangerous wastes are present in the combustion zone; or

(C) Documentation that the waste is a dangerous waste solely because it possesses the characteristic of ignitability, as determined by the tests for characteristics of dangerous waste under WAC 173-303-090; or

(D) Documentation that the waste is a dangerous waste solely because it possesses the reactivity characteristics listed in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii), and (viii), and that it will not be burned when other dangerous wastes are present in the combustion zone.

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with WAC 173-303-807.

(iii) In lieu of a trial burn, the applicant may submit the following information;

(A) An analysis of each waste or mixture of wastes to be burned including:

(I) Heating value of the waste in the form and composition in which it will be burned;

(II) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(III) An identification of any dangerous organic constituents listed in WAC 173-303-9905 or, if not listed, which cause the waste(s) to be regulated, which are present in the waste to be burned, except that the applicant need not analyze for constituents which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110 (3)(a), or their equivalent;

(IV) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110 (3)(a); and

(V) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC's) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in WAC 173-303-670(4);

(B) A detailed engineering description of the incinerator, including:

(I) Manufacturer's name and model number of incinerator;

(II) Type of incinerator;

(III) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

(IV) Description of auxiliary fuel system (type/feed);

(V) Capacity of prime mover;

(VI) Description of automatic waste feed cutoff system(s);

(VII) Stack gas monitoring and pollution control monitoring system;

- (VIII) Nozzle and burner design;
- (IX) Construction materials; and
- (X) Location and description of temperature, pressure, and flow indicating devices and control devices;

(C) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in (f)(iii)(A) of this subsection. This analysis should specify the principal organic dangerous constituents (PODC's) which the applicant has identified in the waste for which a permit is sought, and any differences from the PODC's in the waste for which burn data are provided;

(D) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

(E) A description of the results submitted from any previously conducted trial burn(s) including:

(I) Sampling and analysis techniques used to calculate performance standards in WAC 173-303-670(4); and

(II) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

(F) The expected incinerator operation information to demonstrate compliance with WAC 173-303-670 (4) and (6), including:

(I) Expected carbon monoxide (CO) level in the stack exhaust gas;

(II) Waste feed rate;

(III) Combustion zone temperature;

(IV) Indication of combustion gas velocity;

(V) Expected stack gas volume, flow rate, and temperature;

(VI) Computed residence time for waste in the combustion zone;

(VII) Expected hydrochloric acid removal efficiency;

(VIII) Expected fugitive emissions and their control procedures; and

(IX) Proposed waste feed cutoff limits based on the identified significant operating parameters;

(G) Such supplemental information as the department finds necessary to achieve the purposes of this subsection;

(H) Waste analysis data, including that submitted in (f)(iii)(A) of this subsection, sufficient to allow the department to specify as permit principal organic dangerous constituents (permit PODC's) those constituents for which destruction and removal efficiencies will be required; and

(I) Test protocols and sampling and analytical data to demonstrate the designation status under WAC 173-303-070 of:

(I) Incinerator ash residues, if any; and

(II) Residues from the air pollution control devices.

(iv) The department will approve a permit application without a trial burn if the department finds that:

(A) The wastes are sufficiently similar; and

(B) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under WAC 173-303-670(6)) operating conditions that will ensure

that the performance standards in WAC 173-303-670(4) will be met by the incinerator.

(v) When an owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of 40 CFR part 63, subpart EEE), the requirements of this subsection do not apply, except those provisions the department determines are necessary to ensure compliance with WAC 173-303-670 (6)(a) and (c) if you elect to comply with 40 CFR 270.235 (a)(1)(i), which is incorporated by reference at WAC 173-303-841, to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the department may apply the provisions of this subsection, on a case-by-case basis, for purposes of information collection in accordance with WAC 173-303-800(11) and 173-303-815 (2)(b)(ii). Note that 40 CFR part 63 subpart EEE is incorporated by reference at WAC 173-400-075 (5)(a). If you are subject to 40 CFR Part 63 you must get an air permit from ecology or the local air authority.

(g) Specific Part B information requirements for land treatment facilities. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use land treatment to dispose of dangerous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under WAC 173-303-655(3). The description must include the following information:

(A) The wastes for which the demonstration will be made and the potential dangerous constituents in the waste;

(B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(C) Any specific laboratory or field test that will be conducted, including:

(I) The type of test (e.g., column leaching, degradation);

(II) Materials and methods, including analytical procedures;

(III) Expected time for completion; and

(IV) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under WAC 173-303-655(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

(A) The wastes to be land treated;

(B) Design measures and operating practices necessary to maximize treatment in accordance with WAC 173-303-655 (4)(a) including:

(I) Waste application method and rate;

(II) Measures to control soil pH;

(III) Enhancement of microbial or chemical reactions;

and

(IV) Control of moisture content;

(C) Provisions for unsaturated zone monitoring, including:

- (I) Sampling equipment, procedures, and frequency;
- (II) Procedures for selecting sampling locations;
- (III) Analytical procedures;
- (IV) Chain of custody control;
- (V) Procedures for establishing background values;
- (VI) Statistical methods for interpreting results; and
- (VII) The justification for any dangerous constituents recommended for selection as principal dangerous constituents, in accordance with the criteria for such selection in WAC 173-303-655 (6)(a);

(D) A list of dangerous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to WAC 173-303-300;

(E) The proposed dimensions of the treatment zone;

(iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of WAC 173-303-655(4). This submission must address the following items:

(A) Control of run-on;

(B) Collection and control of runoff;

(C) Minimization of runoff of dangerous constituents from the treatment zone;

(D) Management of collection and holding facilities associated with run-on and runoff control systems;

(E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under (a)(v) of this subsection; and

(F) Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under WAC 173-303-655(5) will be conducted including:

(A) Characteristics of the food-chain crop for which the demonstration will be made;

(B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown; and

(E) If cadmium is present in the land treated waste, a description of how the requirements of WAC 173-303-655 (5)(b) will be complied with;

(v) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under WAC 173-303-655 (8)(a)(viii) and (c)(ii). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of WAC 173-303-655(9) will be complied with; and

(vii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how WAC 173-303-655(10) will be complied with.

(viii) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-655(12).

(h) Specific Part B information requirements for landfills. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that dispose of dangerous waste in landfills must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is designed, and is or will be constructed, operated and maintained to comply with the requirements of WAC 173-303-335, 173-303-665 (2), (8) and (9) addressing the following items:

(A)(I) The liner system (except for an existing portion of a landfill), if the landfill must meet the requirements of WAC 173-303-665 (2)(a), including the licensed engineer's certification required by WAC 173-303-665 (2)(a)(i). If an exemption from the requirements for a liner and a leachate collection and removal system is sought, as provided by WAC 173-303-665 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituent into the ground water or surface water at any future time;

(II) The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of WAC 173-303-665 (2)(h). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-665 (2)(j), (k) or (l), submit appropriate information;

(III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(IV) The construction quality assurance (CQA) plan if required under WAC 173-303-335;

(V) Proposed action leakage rate, with rationale, if required under WAC 173-303-665(8), and response action plan, if required under 173-303-665(9);

(B) Control of run-on;

(C) Control of runoff;

(D) Management of collection and holding facilities associated with run-on and runoff control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iii) Reserve.

(iv) A description of how each landfill, including the double liner system, leachate collection and removal system, cover systems, and appurtenances for control for run-on and runoff will be inspected in order to meet the requirements of WAC 173-303-665(4). This information must be included in the inspection plan submitted under (a)(v) of this subsection;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with WAC 173-303-665 (6)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with WAC 173-303-665 (6)(b) and (c). This information should be included in the closure and post-closure plans submitted under (a)(xiii) of this subsection;

(vi) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how WAC 173-303-665(7) will be complied with;

(vii) A description of how each landfill will be designed and operated in order to comply with WAC 173-303-140.

(i) Specific Part B information requirements for miscellaneous units. Except as otherwise provided in WAC 173-303-680(1), owners and operators of facilities that treat, store, or dispose of dangerous waste in miscellaneous units must provide the following additional information:

(i) A detailed description of the unit being used or proposed for use, including the following:

(A) Physical characteristics, materials of construction, and dimensions of the unit;

(B) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of WAC 173-303-680 (2) and (3); and

(C) For disposal units, a detailed description of the plans to comply with the post-closure requirements of WAC 173-303-680(4).

(ii) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of WAC 173-303-680(2). If the applicant can demonstrate that he does not violate the environmental performance standards of WAC 173-303-680(2) and the department agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

(iii) Information on the potential pathways of exposure of humans or environmental receptors to dangerous waste or dangerous constituents and on the potential magnitude and nature of such exposures.

(iv) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

(v) Any additional information determined by the department to be necessary for evaluation of compliance of the unit with the environmental performance standards of WAC 173-303-680(2).

(j) Specific Part B information requirements for process vents. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that have process vents to which WAC 173-303-690 applies must provide the following additional information:

(i) For facilities that cannot install a closed-vent system and control device to comply with the provisions of WAC 173-303-690 on the effective date that the facility becomes subject to the provisions of WAC 173-303-690 or 40 CFR 265 Subpart AA incorporated by reference at WAC 173-303-

400 (3)(a), an implementation schedule as specified in 40 CFR section 264.1033 (a)(2).

(ii) Documentation of compliance with the process vent standards in 40 CFR section 264.1032, including:

(A) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the dangerous waste management units on a facility plot plan).

(B) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(C) Information and data used to determine whether or not a process vent is subject to the requirements of 40 CFR section 264.1032.

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with the requirements of 40 CFR 264.1032, and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 40 CFR 264.1035 (b)(3).

(iv) Documentation of compliance with 40 CFR 264.1033, including:

(A) A list of all information references and sources used in preparing the documentation.

(B) Records, including the dates, of each compliance test required by 40 CFR 264.1033(k).

(C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" (WAC 173-303-110 (3)(g)(viii)) or other engineering texts acceptable to the department that present basic control device design information. The design analysis will address the vent stream characteristics and control device operation parameters as specified in 40 CFR 264.1035 (b)(4)(iii).

(D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the dangerous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.

(E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater unless the total organic emission limits of 40 CFR 264.1032(a) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

(k) Specific Part B information requirements for equipment leaks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that have equipment to which WAC 173-303-691 applies must provide the following additional information:

(i) For each piece of equipment to which WAC 173-303-691 applies:

(A) Equipment identification number and dangerous waste management unit identification.

(B) Approximate locations within the facility (e.g., identify the dangerous waste management unit on a facility plot plan).

(C) Type of equipment (e.g., a pump or pipeline valve).

(D) Percent by weight total organics in the hazardous waste stream at the equipment.

(E) Hazardous waste state at the equipment (e.g., gas/vapor or liquid).

(F) Method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").

(ii) For facilities that cannot install a closed-vent system and control device to comply with the provisions of WAC 173-303-691 on the effective date that the facility becomes subject to the provisions of WAC 173-303-691 or 40 CFR Part 265 Subpart BB incorporated by reference at WAC 173-303-400 (3)(a), an implementation schedule as specified in 40 CFR 264.1033 (a)(2).

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 40 CFR section 264.1035 (b)(3).

(iv) Documentation that demonstrates compliance with the equipment standards in 40 CFR sections 264.1052 to 264.1059. This documentation will contain the records required under 40 CFR 264.1064. The department may request further documentation before deciding if compliance has been demonstrated.

(v) Documentation to demonstrate compliance with 40 CFR section 264.1060 will include the following information:

(A) A list of all information references and sources used in preparing the documentation.

(B) Records, including the dates, of each compliance test required by 40 CFR 264.1033(j).

(C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "ATPI Course 415: Control of Gaseous Emissions" (incorporated by reference as specified in WAC 173-303-110 (3)(g)(viii)) or other engineering texts acceptable to the department that present basic control device design information. The design analysis will address the vent stream characteristics and control device operation parameters as specified in 40 CFR 264.1035 (b)(4)(iii).

(D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist

when the dangerous waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

(I) Special Part B information requirements for drip pads.

Except as otherwise provided by WAC 173-303-600(3), owners and operators of dangerous waste treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads must provide the following additional information:

(i) A list of hazardous wastes placed or to be placed on each drip pad.

(ii) If an exemption is sought to WAC 173-303-645, as provided by WAC 173-303-645(1), detailed plans and an engineering report describing how the requirements of WAC 173-303-645 (1)(b) will be met.

(iii) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated and maintained to meet the requirements of WAC 173-303-675(4), including the as-built drawings and specifications. This submission must address the following items as specified in WAC 173-303-675(2):

(A) The design characteristics of the drip pad;

(B) The liner system;

(C) The leakage detection system, including the leak detection system and how it is designed to detect the failure of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time;

(D) Practices designed to maintain drip pads;

(E) The associated collection system;

(F) Control of run-on to the drip pad;

(G) Control of runoff from the drip pad;

(H) The interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;

(I) Procedures for cleaning the drip pad at least once every seven days to ensure the removal of any accumulated residues of waste or other materials, including but not limited to rinsing, washing with detergents or other appropriate solvents, or steam cleaning and provisions for documenting the date, time, and cleaning procedure used each time the pad is cleaned.

(J) Operating practices and procedures that will be followed to ensure that tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized;

(K) Procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and nonpressure processes is held on the drip pad until drippage has ceased, including recordkeeping practices;

(L) Provisions for ensuring that collection and holding units associated with the run-on and runoff control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system;

PROPOSED

(M) If treatment is carried out on the drip pad, details of the process equipment used, and the nature and quality of the residuals.

(N) A description of how each drip pad, including appurtenances for control of run-on and runoff, will be inspected in order to meet the requirements of WAC 173-303-675(4). This information should be included in the inspection plan submitted under (a)(v) of this subsection.

(O) A certification signed by an independent qualified, registered professional engineer, stating that the drip pad design meets the requirements of WAC 173-303-675 (4)(a) through (f).

(P) A description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under WAC 173-303-675 (6)(a). For any waste not to be removed from the drip pad upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665(6) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection.

(m) Specific Part B information requirements for air emission controls for tanks, surface impoundments, and containers (Subpart CC) at 40 CFR Part 270.27 are incorporated by reference.

(n) When an owner or operator of a cement or light-weight aggregate kiln demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of part 63, subpart EEE), the requirements of this subsection do not apply, except those provisions the director determines are necessary to ensure compliance with 40 CFR 266.102 (e)(1) and 266.102 (e)(2)(iii) if you elect to comply with 40 CFR 270.235 (a)(1)(i), which is incorporated by reference at WAC 173-303-841, to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the director may apply the provisions of this subsection, on a case-by-case basis, for purposes of information collection in accordance with WAC 173-303-800(11) and 173-303-815 (2)(b)(ii).

(5) Construction. A person may begin physical construction of a new facility, or of new portions of an existing facility if the new portions would amount to reconstruction under interim status (WAC 173-303-805(7)), only after complying with WAC 173-303-281, submitting Part A and Part B of the permit application and receiving a final facility permit. All permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(6) Reapplications. Any dangerous waste facility with an effective final facility permit must submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date provided that such date will never be later than the expiration date of the effective permit.

Note: See public notice requirements at WAC 173-303-281(5).

(7) Continuation of expiring permits.

(a) When the owner/operator submits a timely application for a final facility permit and the application is determined by the department to be complete pursuant to subsection (8) of this section, the facility is allowed to continue operating under the expiring or expired permit until the effective date of the new permit.

(b) When the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

(i) Initiate enforcement action based upon the permit which has been continued;

(ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(iii) Issue a new permit with appropriate conditions; and/or

(iv) Take other actions authorized by this chapter.

(8) Completeness. The department will not issue a final facility permit before receiving a complete application, except for permits by rule or emergency permits. An application for a permit is complete when the application form and any supplemental information has been submitted to the department's satisfaction. The completeness of any application for a permit will be judged independently of the status of any other permit application or permit for the same facility or activity. The department may deny a permit for the active life of a dangerous waste management facility or unit before receiving a complete application for a permit.

(9) Recordkeeping. Applicants must keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.

(10) General permit conditions. All final facility permits will contain general permit conditions described in WAC 173-303-810.

(11) Permit duration.

(a) Final facility permits will be effective for a fixed term not to exceed ten years.

(b) The department may issue any final facility permit for a duration that is less than the full allowable term.

(c) The term of a final facility permit will not be extended beyond ten years, unless otherwise authorized under subsection (7) of this section.

(d) Each permit for a land disposal facility will be reviewed by the department five years after the date of permit issuance or reissuance and will be modified as necessary, as provided in WAC 173-303-830(3).

(12) Reserve.

(13) Grounds for denial. A permit application will be denied pursuant to the procedures in WAC 173-303-840 if it is determined that the proposed location and/or activity endangers public health and the environment as demonstrated by the permit applicant's failure to satisfy the performance standards of WAC 173-303-283.

(14) Permit changes. All final facility permits will be subject to the requirements of permit changes, WAC 173-303-830.

(15) Procedures for decision making. Issuance of final facility permits will be subject to the procedures for decision making described in WAC 173-303-840.

(16) Other requirements for final recycling facility permits. In lieu of issuing a final recycling facility permit, the department may, after providing opportunity for public comment in accordance with WAC 173-303-840, defer to a permit already issued under other statutory authority administered by the department (such as the State Water Pollution Control Act, chapter 90.48 RCW, the State Clean Air Act, chapter 70.94 RCW, etc.) which incorporates the requirements of this section, and WAC 173-303-500 through 173-303-525 for recycling facilities.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-807 Trial burns for dangerous waste incinerator final facility permits. When an owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of part 63, subpart EEE), the requirements of this section do not apply, except those provisions the department determines are necessary to ensure compliance with WAC 173-303-670 (6)(a) and (c) if you elect to comply with 40 CFR 270.235 (a)(1)(i), which is incorporated by reference at WAC 173-303-841, to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the department may apply the provisions of this section on a case-by-case basis, for purposes of information collection in accordance with WAC 173-303-800(11) and 173-303-815 (2)(b)(ii). 40 CFR part 63 subpart EEE is incorporated by reference at WAC 173-400-075 (5)(a). Note that if you are subject to Part 63 you must get an air permit from ecology or the local air authority.

(1) Purpose and applicability. For purposes of determining operational readiness and establishing conditions in final facility permits for dangerous waste incinerators, the department may approve trial burns. Trial burns may not exceed seven hundred twenty hours operating time, except that the department may extend the duration of this operational period once, up to seven hundred twenty additional hours, at the request of the owner/operator of the incinerator when good cause is shown. The permit may be modified to reflect the extension according to WAC 173-303-830(4). The procedures for requesting and approving trial burns are described in:

(a) Subsection (11) of this section for existing incinerators with interim status permits; and

(b) Subsection (13) of this section for new incinerators and for incinerators with final facility permits in which the owner/operator wishes to burn new wastes not currently included in the permit.

(2) Trial burn plan. The trial burn must be conducted in accordance with a trial burn plan prepared by the applicant and approved by the department. The trial burn plan will then

become a condition of the permit and will include the following information:

(a) An analysis of each waste or mixture of waste to be burned which includes:

(i) Heating value of the waste in the form and composition in which it will be burned;

(ii) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(iii) An analysis identifying any dangerous organic constituents listed in WAC 173-303-9905, and any other dangerous constituents which, although not listed, caused the waste to be regulated as a dangerous waste, which are reasonably expected to be present in the waste to be burned. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified or referenced in WAC 173-303-110 (3)(a), or their equivalent;

(iv) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified or referenced in WAC 173-303-110 (3)(a); and

(v) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standard in WAC 173-303-670(4);

(b) A detailed engineering description of the incinerator for which the trial burn permit is sought including:

(i) Manufacturer's name and model number of incinerator (if available);

(ii) Type of incinerator;

(iii) Linear dimensions of the incinerator unit including the cross sectional area of the combustion chamber;

(iv) Description of the auxiliary fuel system (type/feed);

(v) Capacity of the prime air mover;

(vi) Description of automatic waste feed cutoff system(s);

(vii) Stack gas monitoring and pollution control equipment;

(viii) Nozzle and burner design;

(ix) Construction materials; and

(x) Location and description of temperature, pressure, and flow indicating and control devices;

(c) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis;

(d) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the department's decision under subsection (5) of this section;

(e) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, air feed rate, use of auxiliary fuel, and other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator;

(f) A description of, and planned operating conditions for, any emission control equipment which will be used;

(g) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction;

(h) A detailed test protocol to sample and analyze the following for designation under WAC 173-303-070:

(i) Any incinerator ash residue collected in the incinerator; and

(ii) Any residues collected in the air pollution control devices; and

(i) Such other information as the department reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this section.

(3) Additional information required. The department, in reviewing the trial burn plan, will evaluate the adequacy of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this section.

(4) Trial PODCs. Based on the waste analysis data in the trial burn plan, the department will specify as trial principal organic dangerous constituents (trial PODCs) those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial PODCs will be specified by the department based on its estimate of the difficulty of incineration of the constituents identified in the waste analysis, the concentration or mass in the waste feed, and the dangerous waste constituent or constituents identified in WAC 173-303-9905, or identified as causing the waste to be regulated as a dangerous waste.

(5) Approval of the plan. The department will approve a trial burn plan if it finds that:

(a) The trial burn is likely to determine whether the incinerator performance standard required by WAC 173-303-670(4) can be met;

(b) The trial burn itself will not present an imminent hazard to public health or the environment;

(c) The trial burn will help the department to determine operating requirements to be specified under WAC 173-303-670(6); and

(d) The information sought in (a), (b), and (c) of this subsection cannot reasonably be developed through other means.

(6) The department must send a notice to all persons on the facility mailing list as set forth in WAC 173-303-840 (3)(e)(i)(D) and to the appropriate units of state and local government as set forth in WAC 173-303-840 (3)(e)(i)(E) announcing the scheduled beginning and completion dates for the trial burn. The applicant may not begin the trial burn until after the department has issued such notice.

(a) This notice must be mailed within a reasonable time period before the scheduled trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the department.

(b) This notice must contain:

(i) The name and telephone number of the applicant's contact person;

(ii) The name and telephone number of the department's contact office;

(iii) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

(iv) An expected time period for beginning and completion of the trial burn.

(7) Trial burns. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(a) A quantitative analysis of the trial PODCs in the waste feed to the incinerator;

(b) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial PODCs, O₂, hydrogen chloride (HCl), carbon monoxide (CO) and dangerous combustion by-products, including the total mass emission rate of by-products as a percent of the total mass feed rate of PODCs fed to the incinerator;

(c) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial PODCs and whether they are designated according to WAC 173-303-070;

(d) A total mass balance of the trial PODCs in the waste;

(e) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in WAC 173-303-670 (4)(a);

(f) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with WAC 173-303-670 (4)(c)(i);

(g) A computation of particulate emissions, in accordance with WAC 173-303-670 (4)(c)(ii);

(h) An identification of sources of fugitive emissions and their means of control;

(i) A measurement of average, maximum, and minimum temperatures, and combustion gas velocity;

(j) A continuous measurement of carbon monoxide in the exhaust gas;

(k) An identification of any existing air emission standards where a state or local air pollution control authority has established emission standards and such standards are applicable to the incinerator; and

(l) Such other information as the department may specify as necessary to ensure that the trial burn will determine compliance with the performance standard of WAC 173-303-670(4), and to establish the operating conditions required by WAC 173-303-670(6).

(8) Certification. The applicant must submit to the department a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all determinations required by subsection (7) of this section. This submission must be made within thirty days of the completion of the trial burn, or later if approved by the department.

(9) Submission of data. All data collected during any trial burn must be submitted to the department following the completion of the trial burn.

(10) Signatures required. All submissions required under this section must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application under WAC 173-303-810(12).

(11) Based on the results of the trial burn, the department will set the operating requirements in the final permit according to WAC 173-303-670(6). The permit modification shall proceed according to WAC 173-303-830(4).

(12) Existing incinerators with interim status permits.

(a) The owner/operator of an existing incinerator currently operating under an interim status permit may, when

required by the department (or when he chooses) to apply for a final facility permit, request the department to approve of a trial burn. The trial burn may be requested for the purposes of determining feasibility of compliance with the performance standards of WAC 173-303-670(4) and the operating conditions of WAC 173-303-670(6). If a trial burn is requested, the owner/operator must prepare and submit a trial burn plan and, upon approval by the department, perform a trial burn in accordance with subsections (2) through (10) of this section.

(b) If the department approves the trial burn, it will issue a notice of interim status modification granting such approval and specifying the conditions applicable to the trial burn. The notice of modification will be a condition of the interim status permit. Note: The national emission standards for hazardous air pollutants may require review for a notice of construction. Owners and operators should consult chapter 173-400 WAC or local air pollution control agency regulations for applicability.

(c) If the trial burn is approved before submitting a final facility permit application, the owner/operator must complete the trial burn and submit the information described in subsection (7) of this section, with Part B of the permit application. If completion of this process conflicts with the date set for submission of Part B of the final facility permit application, the owner/operator must contact the department to extend the date for submitting the Part B or the trial burn results. If the applicant submits a trial burn plan with Part B of the final facility permit application, the department will specify in the notice of interim status modification issued under (b) of this subsection, a time period for conducting the trial burn and submitting the results. Trial burn results must be submitted prior to the issuance of the permit.

(13) New incinerators and new wastes.

(a)(i) The owner/operator of a new incinerator may submit with Part B of a final facility permit application a request for approval of a trial burn. This request must include a statement of why the trial burn is desirable, and a trial burn plan prepared in accordance with subsection (2) of this section.

(ii) The department will proceed to issue a final facility permit in accordance with WAC 173-303-806. The permit will include the trial burn plan, and will establish operating conditions for the trial burn including but not limited to those described in WAC 173-303-670(6). The time period for conducting the trial burn and submitting the results will also be specified in the permit.

(iii) After the trial burn has been completed and the results submitted to the department, the final facility permit will be modified in accordance with WAC 173-303-830(4) to establish the final operating requirements and performance standards for the incinerator.

(b) The owner/operator of an incinerator with a final facility permit who wishes to burn new wastes not currently included in his permit may request approval of a trial burn for the new wastes. The request and approval will be handled in the same way as described in (a) of this subsection, except that in lieu of issuing an entirely new final facility permit the department will modify the existing final facility permit in accordance with WAC 173-303-830.

(14) For the purpose of determining feasibility of compliance with the performance standards of WAC 173-303-

670(4) and of determining adequate operating conditions under WAC 173-303-670(6), the applicant for a permit for an existing dangerous waste incinerator must prepare and submit a trial burn plan and perform a trial burn in accordance with WAC 173-303-806 (4)(f) and subsections (2) through (5) and (7) through (10) of this section or, instead, submit other information as specified in WAC 173-303-806 (4)(f)(iii). The department must announce its intention to approve the trial burn plan in accordance with the timing and distribution requirements of subsection (6) of this section. The contents of the notice must include: The name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the department; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for department approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under WAC 173-303-806 (4)(f)(i) are exempt from compliance with WAC 173-303-670 (4) and (6) and, therefore, are exempt from the requirement to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in subsection (7) of this section, with Part B of the permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the department to establish a later date for submission of the Part B application or the trial burn results. Trial burn results must be submitted prior to issuance of the permit. When the applicant submits a trial burn plan with Part B of the permit application, the department will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-810 General permit conditions. (1) Purpose and applicability. This section sets forth the general permit conditions that are applicable to all permits, except interim status permits and permits by rule, to assure compliance with this chapter. If the conditions of this section are incorporated in a permit by reference, a specific citation to this section must be given in the permit.

(2) Duty to comply. The permittee must comply with all conditions of his permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee need not comply with the conditions of his permit to the extent and for the duration such noncompliance is authorized in an emergency permit.

(3) Duty to reapply. If the permittee wishes to continue an activity regulated by the permit after its expiration date, the permittee must apply for and obtain a new permit.

(4) Duty to halt or reduce activity. A permittee who has not complied with his permit, and who subsequently is subject to enforcement actions, may not argue that it would have

been necessary to halt or reduce the permitted activities in order to maintain compliance with the conditions of the permit.

(5) Duty to mitigate. The permittee must take all steps required by the department to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit.

(6) Proper operation and maintenance. The permittee must at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(7) Permit actions. The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, notification of planned changes, or anticipated noncompliance, does not stay any permit condition.

(8) Effect of a permit.

(a) Compliance with a final facility permit during its term constitutes compliance for the purpose of enforcement with chapter 173-303 WAC except for permit modifications and those requirements not included in the permit that:

(i) Become effective by statute;

(ii) Are adopted under 40 CFR Part 268 restricting the placement of dangerous waste in or on the land;

(iii) Are adopted under WAC 173-303-650 through 173-303-665 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of WAC 173-303-830 Class *1 permit modifications; or

(iv) Are adopted under 40 CFR Subparts AA, BB, or CC which are incorporated by reference at WAC 173-303-400 (3)(a) limiting air emissions.

(b) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

(c) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local laws or regulations.

(9) Duty to provide information. The permittee must furnish to the department, within a reasonable time, any information which it may request to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit, or to determine compliance with a permit. The permittee must also furnish to the department, upon request, copies of records required to be kept by the permit.

(10) Inspection and entry. The permittee must allow representatives of the department, upon the presentation of proper credentials, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by chapter 173-303 WAC, any substances or parameters at any location.

(11) Monitoring and monitoring records.

(a) Reserve.

(b) Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.

(c) The permittee must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, the certification required by WAC 173-303-380 (1)(q), and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the department at any time. The permittee must maintain records from all ground water monitoring wells and associated ground water surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period as well.

(d) Records of monitoring information must include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(e) The permittee must maintain records from all ground water monitoring wells and associated ground water surface elevations for the active life of the facility, and for disposal facilities for the post-closure period as well.

(12) Signatory requirement. All applications, reports, or information submitted to the department must be signed in accordance with this subsection and must be certified according to subsection (13) of this section.

(a) Applications. When a dangerous waste facility is owned by one person, but is operated by another person, then the operator will be the permit applicant and responsible for developing the permit application and all accompanying materials, except that the owner must also sign and certify the permit application. Permit applications must be signed as follows:

(i) For a corporation: By a responsible corporate officer. For the purposes of this subsection, a responsible corporate officer means:

(A) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) The manager of one or more manufacturing, production or operating facilities employing more than two hundred fifty persons or having gross annual sales or expenditures exceeding twenty-five million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(ii) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

(iii) For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes:

(A) The chief executive officer of the agency; or

(B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(b) Reports. All reports required by permits and other information requested by the department must be signed by a person described in (a) of this subsection, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(i) The authorization is made in writing by a person described in (a) of this subsection;

(ii) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(iii) The written authorization is submitted to the department.

(c) Changes to authorization. If an authorization under (b) of this subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) of this subsection must be submitted to the department prior to or together with any reports, information, or applications to be signed by an authorized representative.

(13) Certification.

(a) Except as provided in (b) of this subsection, any person signing the documents required under (a) or (b) of subsection (12) of this section must make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(b) When a dangerous waste facility is owned by one person, but is operated by another person, then the permit application must be certified as follows:

(i) The operator must make the certification described under (a) of this subsection; and

(ii) The owner must make the following certification:

"I certify under penalty of law that I own the real property described in, and am aware of the contents of, this permit application, and that I have received a copy of this application. As owner of the real property, I understand that I am responsible for complying with any requirements of chapter 173-303 WAC with which only I am able to comply, and that there are significant penalties for failure to comply with such requirements."

(14) Reporting. The following reports must be provided:

(a) Planned changes. The permittee must give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. For a new TSD facility and for a facility being modified, the permittee may not treat, store, or dispose of dangerous waste in the new or modified portion of the facility until:

(i) The permittee has submitted to the department by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and either

(Note: In certifying construction or modification, the independent qualified registered professional engineer is responsible only for certifying those portions of the facility which are identified in chapter 173-303 WAC as specifically requiring certification by an independent registered professional engineer.)

(ii) The department has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(iii) Within fifteen days of the date of submission of the letter, the permittee has not received notice from the department of its intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of dangerous waste.

(b) Anticipated noncompliance. The permittee must give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For a new facility, the permittee may not treat, store, or dispose of dangerous waste; and for a facility being modified, the permittee may not treat, store, or dispose of dangerous waste in the modified portion of the facility except as provided in WAC 173-303-830(4).

(c) Transfers. The permit is not transferable to any person except after notice to the department. The department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

(d) Monitoring reports. Monitoring results (including monitoring of the facility's impacts as required by the applicable sections of this chapter) must be reported at the intervals specified elsewhere in the permit.

(e) Compliance schedules. Reports of permit compliance or noncompliance or any progress reports on interim and final permit requirements contained in any compliance schedule must be submitted no later than fourteen days following each scheduled date.

(f) Immediate reporting. The permittee must immediately report any noncompliance which may endanger health or the environment. Information must be provided orally to the department as soon as the permittee becomes aware of the circumstances. A written submission must also be provided within five days of the time the permittee becomes aware of the circumstances provided that the department may waive the written submission requirement in favor of a written report, to be submitted within fifteen days. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Information which must be reported immediately must include:

(i) Release of dangerous waste that may cause an endangerment to drinking water supplies or ground or surface waters;

(ii) Any information of a release or discharge of dangerous waste, fire, or explosion from the permitted facility which could threaten the environment or human health outside the facility;

(iii) The following description of any such occurrence:

(A) Name, address, and telephone number of the owner or operator;

(B) Name, address, and telephone number of the facility;

(C) Date, time, and type of incident;

(D) Name and quantity of material(s) involved;

(E) The extent of injuries, if any;

(F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(G) Estimated quantity and disposition of recovered material that resulted from the incident.

(g) Other noncompliance. The permittee must report all instances of noncompliance not reported under (d), (e), and (f) of this subsection, at the time monitoring reports are submitted. The reports shall contain the information listed in (f) of this subsection.

(h) Other information. Where the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the department, he must promptly submit this information.

(i) Other reports. In addition, the following reports are required when appropriate:

(i) Manifest discrepancy report as required by WAC 173-303-370(4);

(ii) Unmanifested waste report as required by WAC 173-303-390(1); and

(iii) Annual report as required by WAC 173-303-390(2).

(15) Confidentiality.

(a) Information submitted by the owner/operator of a facility identified as confidential will be treated in accordance with chapter 42.17 RCW and RCW 43.21A.160.

(b) Proprietary information can be held confidential if:

(i) The processes are unique to the owner/operator's business or the owner/operator's competitive position may be

adversely affected if the information is released to the public or to a competitor; and

(ii) The director determines that granting the owner/operator's request is not detrimental to the public interest and is in accord with the policies and purposes of chapter 43.21A RCW.

(c) Claims of confidentiality for permit application information must be substantiated at the time the application is submitted and in the manner prescribed in the application instructions. Claims of confidentiality for the name and address of any permit applicant will be denied.

(d) If a submitter does not provide substantiation, the department will notify the owner/operator by certified mail of the requirement to do so. If the department does not receive the substantiation within ten days after the submitter receives the notice, the department will place the unsubstantiated information in the public file.

(e) The department will determine if the owner/operator's request meets the confidential information criteria.

(16) General permit conditions. Information repository. The director may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in WAC 173-303-281 (5)(b). The information repository will be governed by the provisions in WAC 173-303-281 (5)(c) through (f).

NEW SECTION

WAC 173-303-811 Permits for boilers and industrial furnaces burning hazardous waste. The introductory paragraph of 40 CFR 270.66 is incorporated by reference. It applies to an owner or operator of a cement or lightweight aggregate kiln that demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE.

AMENDATORY SECTION (Amending Order 02-03, filed 3/13/03, effective 4/13/03)

WAC 173-303-830 Permit changes. (1) Purpose and applicability. This section describes the types of permit changes that may be made to all permits issued by the director. This section does not apply to permits by rule or interim status permits.

(2) Transfer of permits.

(a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under (b) of this subsection or subsection (3) of this section) to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate act.

(b) Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the director in accordance with subsection (4) of this section. The new owner or operator must submit a revised permit application no later than ninety days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the director. When a transfer of ownership or operational control occurs, the old owner or operator must comply

with the requirements of WAC 173-303-620 (Financial requirements) until the new owner or operator has demonstrated that he or she is complying with the financial requirements. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the director by the new owner or operator of compliance with the financial requirements, the director will notify the old owner or operator that he or she no longer needs to comply with the financial requirements as of the date of demonstration.

(3) Modification or revocation and reissuance of permits. When the director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for revocation and reissuance, or conducts a review of the permit file), the director may determine whether or not one or more of the causes listed in (a) and (b) of this subsection for modification or revocation and reissuance or both exist. If cause exists, the director may modify or revoke and reissue the permit accordingly, subject to the limitations of (c) of this subsection, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. All other aspects of the existing permit remain in effect for the duration of the unmodified permit. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. During any revocation and reissuance proceeding, the permittee must comply with all conditions of the existing permit until a new final permit is reissued. If cause does not exist under this subsection, the director will not modify or revoke and reissue the permit, except on request of the permittee. If a permit modification is requested by the permittee, the director will approve or deny the request according to the procedures of subsection (4) of this section. Otherwise, a draft permit must be prepared and public review provided in accordance with WAC 173-303-840.

(a) Causes for modification. The following are causes for modification, but not revocation and reissuance, of permits; the following may be causes for revocation and reissuance, as well as modification, when the permittee requests or agrees:

(i) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

(ii) Information. Permits may be modified during their terms if the director receives information that was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of different permit conditions at the time of issuance;

(iii) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through adoption of new or amended standards or regulations or by judicial decision after the permit was issued.

(iv) Compliance schedules. The director determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage, or

other events over which the permittee has little or no control and for which there is no reasonably available remedy;

(v) Notwithstanding any other provision in this section, when a permit for a land disposal facility is reviewed by the director under 173-303-806 (11)(d), the director will modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in this chapter.

(b) Causes for modification or revocation and reissuance. The following are causes to modify, or alternatively, revoke and reissue a permit:

(i) Cause exists for termination under WAC 173-303-830(5) for final facility permits, and the director determines that modification or revocation and reissuance is appropriate; or

(ii) The director has received notification of a proposed transfer of the permit.

(c) Reserve.

(4) Permit modification at the request of the permittee.

(a) Class 1 modifications.

(i) Except as provided in (a)(ii) of this subsection, the permittee may put into effect Class 1 modifications listed in Appendix I of this section under the following conditions:

(A) The permittee must notify the director concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(B) The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the director in accordance with WAC 173-303-840 (3)(e)(i)(D), and the appropriate units of state and local government, as specified in WAC 173-303-840 (3)(e)(i)(E). This notification must be made within ninety calendar days after the change is put into effect. For the Class 1 modifications that require prior director approval, the notification must be made within ninety calendar days after the director approves the request.

(C) Any person may request the director to review, and the director may for cause reject, any Class 1 modification. The director must inform the permittee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee must comply with the original permit conditions.

(ii) Class 1 permit modifications identified in Appendix I by an asterisk may be made only with the prior written approval of the director.

(iii) For a Class 1 permit modification, the permittee may elect to follow the procedures in (b) of this subsection for Class 2 modifications instead of the Class 1 procedures. The permittee must inform the director of this decision in the notice required in (b)(i) of this subsection.

(b) Class 2 modifications.

(i) For Class 2 modifications, listed in Appendix I of this section, the permittee must submit a modification request to the director that:

(A) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(B) Identifies that the modification is a Class 2 modification;

(C) Explains why the modification is needed; and

(D) Provides the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(ii) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the director and to the appropriate units of state and local government as specified in WAC 173-303-840 (3)(e)(i)(E) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the director evidence of the mailing and publication. The notice must include:

(A) Announcement of a sixty-day comment period, in accordance with (b)(v) of this subsection, and the name and address of a departmental contact to whom comments must be sent;

(B) Announcement of the date, time, and place for a public meeting held in accordance with (b)(iv) of this subsection;

(C) Name and telephone number of the permittee's contact person;

(D) Name and telephone number of a departmental contact person;

(E) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(F) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the department of ecology contact person."

(iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(iv) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in (b)(ii) of this subsection and no later than fifteen days before the close of the sixty-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(v) The public will be provided sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department of ecology contact identified in the public notice.

(vi)(A) No later than ninety days after receipt of the notification request, the director must:

(I) Approve the modification request, with or without changes, and modify the permit accordingly;

(II) Deny the request;

(III) Determine that the modification request must follow the procedures in (c) of this subsection for Class 3 modifications for the following reasons:

(AA) There is significant public concern about the proposed modification; or

(BB) The complex nature of the change requires the more extensive procedures of Class 3;

(IV) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty days; or

(V) Notify the permittee that he or she will decide on the request within the next thirty days.

(B) If the director notifies the permittee of a thirty-day extension for a decision, the director must, no later than one hundred twenty days after receipt of the modification request:

(I) Approve the modification request, with or without changes, and modify the permit accordingly;

(II) Deny the request; or

(III) Determine that the modification request must follow the procedures in (c) of this subsection for Class 3 modifications for the following reasons:

(AA) There is significant public concern about the proposed modification; or

(BB) The complex nature of the change requires the more extensive procedures of Class 3.

(IV) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty days.

(C) If the director fails to make one of the decisions specified in (b)(vi)(B) of this subsection by the one hundred twentieth day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to one hundred eighty days, without formal departmental action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR Part 265 (as referenced by WAC 173-303-400). If the director approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in (b)(vi)(A), (B), or (C) of this subsection, such action cancels the temporary or automatic authorization.

(D)(I) In the case of an automatic authorization under (b)(vi)(C) of this subsection, or a temporary authorization under (b)(vi)(A)(IV) or (B)(IV) of this subsection, if the director has not made a final approval or denial of the modification request by the date fifty days prior to the end of the temporary or automatic authorization, the permittee must within seven days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:

(AA) The permittee has been authorized temporarily to conduct the activities described in the permit modification request; and

(BB) Unless the director acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.

(II) If the owner/operator fails to notify the public by the date specified in (b)(vi)(D)(I) of this subsection, the effective date of the permanent authorization will be deferred until fifty days after the owner/operator notifies the public.

(E) Except as provided in (b)(vi)(G) of this subsection, if the director does not finally approve or deny a modification

request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under subsection (3) or (4) of this section. The activities authorized under this subsection (b)(vi)(E) must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR Part 265 (as referenced by WAC 173-303-400).

(F) In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the director must consider all written comments submitted during the public comment period and must respond in writing to all significant comments in his or her decision.

(G) With the written consent of the permittee, the director may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.

(vii) The director may deny or change the terms of a Class 2 permit modification request under (b)(6)(i) through (iii) of this subsection for the following reasons:

(A) The modification request is incomplete;

(B) The requested modification does not comply with the appropriate requirements of WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680 or other applicable requirements; or

(C) The conditions of the modification fail to protect human health and the environment.

(viii) The permittee may perform any construction associated with a Class 2 permit modification request beginning sixty days after the submission of the request unless the director establishes a later date for commencing construction and informs the permittee in writing before day sixty.

(c) Class 3 modifications.

(i) For Class 3 modifications listed in Appendix I of this section, the permittee must submit a modification request to the director that:

(A) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(B) Identifies that the modification is a Class 3 modification;

(C) Explains why the modification is needed; and

(D) Provides the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(ii) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the director and to the appropriate units of state and local government as specified in WAC 173-303-840 (3)(e)(i)(D) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the director evidence of the mailing and publication. The notice must include:

(A) Announcement of a sixty-day comment period, and a name and address of an agency contact to whom comments must be sent;

(B) Announcement of the date, time, and place for a public meeting on the modification request, in accordance with (c)(4) of this subsection;

(C) Name and telephone number of the permittee's contact person;

(D) Name and telephone number of a departmental contact person;

(E) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(F) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the department of ecology contact person."

(iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(iv) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in (c)(ii) of this subsection and no later than fifteen days before the close of the sixty-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(v) The public will be provided at least sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department of ecology contact identified in the notice.

(vi) After the conclusion of the sixty-day comment period, the director must grant or deny the permit modification request according to the permit modification procedures of WAC 173-303-840. In addition, the director must consider and respond to all significant written comments received during the sixty-day comment period.

(d) Other modifications.

(i) In the case of modifications not explicitly listed in Appendix I of this section, the permittee may submit a Class 3 modification request to the department, or he or she may request a determination by the director that the modification should be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, he or she must provide the department with the necessary information to support the requested classification.

(ii) The director will make the determination described in (d)(i) of this subsection as promptly as practicable. In determining the appropriate class for a specific modification, the director will consider the similarity of the modification to other modifications codified in Appendix I and the following criteria:

(A) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the director may require prior approval.

(B) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to:

(I) Common variations in the types and quantities of the wastes managed under the facility permit;

(II) Technological advancements; and

(III) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit.

(C) Class 3 modifications substantially alter the facility or its operation.

(e) Temporary authorizations.

(i) Upon request of the permittee, the director may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection. Temporary authorizations must have a term of not more than one hundred eighty days.

(ii)(A) The permittee may request a temporary authorization for:

(I) Any Class 2 modification meeting the criteria in (e)(iii)(B) of this subsection; and

(II) Any Class 3 modification that meets the criteria in (e)(iii)(B)(I) or (II) of this subsection; or that meets the criteria in (e)(iii)(B)(III) through (V) of this subsection and provides improved management or treatment of a dangerous waste already listed in the facility permit.

(B) The temporary authorization request must include:

(I) A description of the activities to be conducted under the temporary authorization;

(II) An explanation of why the temporary authorization is necessary; and

(III) Sufficient information to ensure compliance with the standards in WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680.

(C) The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the director and to appropriate units of state and local governments as specified in WAC 173-303-840 (3)(e)(i)(D). This notification must be made within seven days of submission of the authorization request.

(iii) The director will approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the director must find:

(A) The authorized activities are in compliance with the standards of WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680.

(B) The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:

(I) To facilitate timely implementation of closure or corrective action activities;

(II) To allow treatment or storage in tanks, containers, or in containment buildings in accordance with 40 CFR Part 268;

(III) To prevent disruption of ongoing waste management activities;

(IV) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

(V) To facilitate other changes to protect human health and the environment.

(iv) A temporary authorization may be reissued for one additional term of up to one hundred eighty days provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and:

(A) The reissued temporary authorization constitutes the director's decision on a Class 2 permit modification in accordance with (b)(vi)(A)(IV) or (B)(IV) of this subsection; or

(B) The director determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of (c) of this subsection are conducted.

(f) Public notice and appeals of permit modification decisions.

(i) The director will notify persons on the facility mailing list and appropriate units of state and local government within ten days of any decision under this section to grant or deny a Class 2 or 3 permit modification request. The director will also notify such persons within ten days after an automatic authorization for a Class 2 modification goes into effect under (b)(vi)(C) or (E) of this subsection.

(ii) The director's decision to grant or deny a Class 2 or 3 permit modification request under this section may be appealed under the permit appeal procedures of WAC 173-303-845.

(iii) An automatic authorization that goes into effect under (b)(vi)(C) or (E) of this subsection may be appealed under the permit appeal procedures of WAC 173-303-845; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the appeal has been granted pursuant to WAC 173-303-845, notwithstanding the provisions of WAC 173-303-840 (8)(b).

(g) Newly regulated wastes and units.

(i) The permittee is authorized to continue to manage wastes listed or identified as dangerous under WAC 173-303-070, or to continue to manage dangerous waste in units newly regulated as dangerous waste management units, if:

(A) The unit was in existence as a dangerous waste facility with respect to the newly listed or identified waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;

(B) The permittee submits a Class 1 modification request on or before the date on which the waste or unit becomes subject to the new requirements;

(C) The permittee is in compliance with the applicable standards of 40 CFR Part 265 (as referenced in WAC 173-303-400) and Part 266 (as referenced in WAC 173-303-510);

(D) The permittee also submits a complete Class 2 or 3 permit modification request within one hundred eighty days of the effective date of the rule listing or identifying the waste, or subjecting the unit to management standards under this chapter; and

(E) In the case of land disposal units, the permittee certifies that each such unit is in compliance with all applicable requirements of 40 CFR Part 265 for ground water monitoring and financial responsibility (as referenced in WAC 173-

303-400) on the date twelve months after the effective date of the rule identifying or listing the waste as dangerous, or regulating the unit as a dangerous waste management unit. If the owner or operator fails to certify compliance with all these requirements, he or she will lose authority to operate under this section.

(ii) New wastes or units added to a facility's permit under this subsection do not constitute expansions for the purpose of the twenty-five percent capacity expansion limit for Class 2 modifications.

(h) Military dangerous waste munitions treatment and disposal. The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if:

(i) The facility was in existence as a dangerous waste facility, and the facility was already permitted to handle the waste military munitions, on the date when the waste military munitions became subject to dangerous waste regulatory requirements;

(ii) On or before the date when the waste military munitions become subject to dangerous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and

(iii) The permittee submits a complete Class 2 modification request within one hundred eighty days of the date when the waste military munitions became subject to dangerous waste regulatory requirements.

(i) Permit modification list. The director must maintain a list of all approved permit modifications and must publish a notice once a year in a statewide newspaper that an updated list is available for review.

(j) Combustion facility changes to meet 40 CFR part 63 MACT standards. (Note that 40 CFR part 63 subpart EEE is incorporated by reference at WAC 173-400-075 (5)(a). If you are subject to Part 63, you must get an air permit from ecology or the local air authority.) The following procedures apply to hazardous waste combustion facility permit modifications requested under Appendix I of this section, section L.9.

(i) Facility owners or operators must have complied with the Notification of Intent to Comply requirements of 40 CFR 63.1210 that were in effect prior to May 14, 2001 (see 40 CFR Part 63 revised as of July 1, 2000) in order to request a permit modification under this section.

(ii) If the department does not approve or deny the request within ninety days of receiving it, the request will be deemed approved. The director may extend this ninety-day deadline one time for up to thirty days by notifying the facility owner or operator.

APPENDIX I

Modifications	Class
A. General Permit Provisions	
1. Administrative and informational changes . . .	1
2. Correction of typographical errors	1

Modifications	Class
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. To provide for more frequent monitoring, reporting, sampling, or maintenance	1
b. Other changes	2
5. Schedule of compliance:	
a. Changes in interim compliance dates, with prior approval of the director	1
b. Extension of final compliance date	3
6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the director	1
7. Changes in ownership or operational control of a facility, provided the procedures of subsection (2)(b) of this section are followed	1
8. <u>Changes to remove permit conditions that are no longer applicable (i.e., because the standards upon which they are based are no longer applicable to the facility).</u>	1
B. General Facility Standards	
1. Changes to waste sampling or analysis methods:	
a. To conform with agency guidance or regulations	1
b. To incorporate changes associated with F039 (multisource leachate) sampling or analysis methods	1
c. To incorporate changes associated with underlying dangerous constituents in ignitable or corrosive wastes	1
d. Other changes	2
2. Changes to analytical quality assurance/control plan:	
a. To conform with agency guidance or regulations	1
b. Other changes	2
3. Changes in procedures for maintaining the operating record	1
4. Changes in frequency or content of inspection schedules	2
5. Changes in the training plan:	
a. That affect the type or decrease the amount of training given to employees	2
b. Other changes	1
6. Contingency plan:	
a. Changes in emergency procedures (i.e., spill or release response procedures)	2

PROPOSED

PROPOSED

Modifications	Class	8. Corrective action program:	
b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed	1	a. Addition of a corrective action program as required by WAC 173-303-645 (10)(i)(ii) and (11) ..	3
c. Removal of equipment from emergency equipment list	2	b. Changes to a corrective action program as required by WAC 173-303-645 (11)(h), unless otherwise specified in this appendix	2
d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan	1	D. Closure	
7. Construction quality assurance plan:		1. Changes to the closure plan:	
a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specification	1	a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the director	11
b. Other changes	2	b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the director	11
Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change will be reviewed under the same procedures as the permit modification.		c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the director	11
C. Ground Water Protection		d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the director	11
1. Changes to wells:		e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix ...	2
a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground water monitoring system	2	f. Extension of the closure period to allow a landfill, surface impoundment, or land treatment unit to receive nondangerous wastes after final receipt of dangerous wastes under WAC 173-303-610 (4)(d) and (e)	2
b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well	1	2. Creation of a new landfill unit as part of closure	3
2. Changes in ground water sampling or analysis procedures or monitoring schedule, with prior approval of the director	11	3. Addition of the following new units to be used temporarily for closure activities:	
3. Changes in statistical procedure for determining whether a statistically significant change in ground water quality between upgradient and downgradient wells has occurred, with prior approval of the director	11	a. Surface impoundments	3
4. Changes in point of compliance	12	b. Incinerators	3
5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):		c. Waste piles that do not comply with WAC 173-303-660 (1)(c)	3
a. As specified in the ground water protection standard	3	d. Waste piles that comply with WAC 173-303-660 (1)(c)	2
b. As specified in the detection monitoring program	2	e. Tanks or containers (other than specified below)	2
6. Changes to a detection monitoring program as required by WAC 173-303-645(9), unless otherwise specified in this appendix	2	f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the director	11
7. Compliance monitoring program:		g. Staging piles	2
a. Addition of compliance monitoring program as required by WAC 173-303-645 (9) and (10)	3	E. Post-Closure	
b. Changes to a compliance monitoring program as required by WAC 173-303-645(10), unless otherwise specified in this appendix	2	1. Changes in name, address, or phone number of contact in post-closure plan	1
		2. Extension of post-closure care period	2
		3. Reduction in the post-closure care period ...	3

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4. Changes to the expected year of final closure, where other permit conditions are not changed 1

5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure 2

F. Containers

1. Modification or addition of container units:

a. Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in F (1)(c) and F (4)(a) below 3

b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F (1)(c) and F (4)(a) below 2

c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), with prior approval of the director. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 11

2:

a. Modification of a container unit without increasing the capacity of the unit 2

b. Addition of a roof to a container unit without alteration of the containment system 1

3. Storage of different wastes in containers:

a. That require additional or different management practices from those authorized in the permit, except as provided in F(4) below 3

b. That do not require additional or different management practices from those authorized in the permit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

4. Storage or treatment of different wastes in containers:

a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 11

b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

G. Tanks

1:

a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in G (1)(c), G (1)(d), and G (1)(e) below 3

b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in G (1)(d) and G (1)(e) below 2

c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: Neutralization, dewatering, phase separation, or component separation 2

d. After prior approval of the director, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: Neutralization, dewatering, phase separation, or component separation 11

e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), with prior approval of the director. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 11

2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit 2

3. Replacement of a tank with a tank that meets the same design standards and has a capacity within +/- 10% of the replaced tank provided 1

-The capacity difference is no more than 1500 gallons,

-The facility's permitted tank capacity is not increased, and

-The replacement tank meets the same conditions in the permit.

4. Modification of a tank management practice 2

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5. Management of different wastes in tanks:

a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in G (5)(c) below 3

b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in G (5)(d) 2

c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii). The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 11

(d) That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received waste of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

H. Surface Impoundments

1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity 3

2. Replacement of a surface impoundment unit 3

3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system 2

4. Modification of a surface impoundment management practice 2

5. Treatment, storage, or disposal of different wastes in surface impoundments:

a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit . . . 3

b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit 2

c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), and provided that the unit meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

6. Modifications of unconstructed units to comply with WAC 173-303-650 (2)(j), (10), (11), and (4)(d) *1

7. Changes in response action plan:

a. Increase in action leakage rate 3

b. Change in a specific response reducing its frequency or effectiveness 3

c. Other changes 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

I. Enclosed Waste Piles. For all waste piles except those complying with WAC 173-303-660 (1)(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with WAC 173-303-660 (1)(c).

1. Modification or addition of waste pile units:

a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity . . . 3

b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity 2

2. Modification of waste pile unit without increasing the capacity of the unit 2

3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit 1

4. Modification of a waste pile management practice 2

5. Storage or treatment of different wastes in waste piles:

a. That require additional or different management practices or different design of the unit 3

b. That do not require additional or different management practices or different design of the unit 2

6. Conversion of an enclosed waste pile to a containment building unit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

J. Landfills and Unenclosed Waste Piles

1. Modification or addition of landfill units that result in increasing the facility's disposal capacity . . . 3

2. Replacement of a landfill 3

3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system 3

4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system 2

5. Modification of a landfill management practice 2

6. Landfill different wastes:

a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system 3

b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system 2

c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), and provided that the landfill unit meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

7. Modifications of unconstructed units to comply with WAC 173-303-660 (2)(j), (11), (12), (5)(c), 173-303-665 (2)(h), (8), (4)(c), and (9) *1

8. Changes in response action plan:

a. Increase in action leakage rate 3

b. Change in a specific response reducing its frequency or effectiveness. 3

c. Other changes 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

K. Land Treatment

1. Lateral expansion of or other modification of a land treatment unit to increase areal extent 3

2. Modification of run-on control system 2

3. Modify run-off control system 3

4. Other modifications of land treatment unit component specifications or standards required in permit 2

5. Management of different wastes in land treatment units:

a. That require a change in permit operating conditions or unit design specifications 3

b. That do not require a change in permit operating conditions or unit design specifications 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

6. Modification of a land treatment unit management practice to:

a. Increase rate or change method of waste application 3

b. Decrease rate of waste application 2

7. Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions 2

8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops 3

9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to WAC 173-303-655 (6)(g)(ii) 3

10. Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements 3

11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements 2

12. Changes in background values for hazardous constituents in soil and soil-pore liquid 2

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- 13. Changes in sampling, analysis, or statistical procedure 2
- 14. Changes in land treatment demonstration program prior to or during the demonstration 2
- 15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the director's prior approval has been received 2
- 16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the director 2
- 17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration 3

- 18. Changes in vegetative cover requirements for closure 2

L. Incinerators, Boilers, and Industrial Furnaces

- 1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3
- 2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 2

- 3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HC1/C1₂, metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

- 4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The director may require a new trial burn to demonstrate compliance with the regulatory performance standards 2

5. Operating requirements:

- a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

- b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls 3

- c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit 2

6. Burning different wastes:

- a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

7. Shakedown and trial burn:

a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn 2

b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the director 11

c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the director 11

d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the director 11

8. Substitution of an alternate type of nondangerous fuel that is not specified in the permit 1

9. Technology changes needed to meet standards under 40 CFR part 63 (subpart EEE-National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), that are incorporated by reference at WAC 173-400-075 (5)(a) provided the procedures of WAC 173-303-830 (4)(j) are followed. 11

M. Containment Buildings

1. Modification or addition of containment building units:

a. Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity. 3

b. Resulting in up to 25% increase in the facility's containment building storage or treatment capacity. 2

2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit. 2

3. Replacement of a containment building with a containment building that meets the same design standards provided:

a. The unit capacity is not increased. 1

b. The replacement containment building meets the same conditions in the permit. 1

4. Modification of a containment building management practice. 2

5. Storage or treatment of different wastes in containment buildings:

a. That require additional or different management practices. 3

b. That do not require additional or different management practices. 2

N. Corrective Action

1. Approval of a corrective action management unit pursuant to WAC ((173-303-646(4), (5), and (6))) 173-303-64640, 173-303-64650, 173-303-64660, and 173-303-64670 3

2. Approval of a temporary unit or time extension for a temporary unit pursuant to WAC ((173-303-646(7))) 173-303-64680 2

3. Approval of a staging pile or staging pile operating term extension 2

4. Modification to incorporate a corrective action order issued pursuant to MTCA 3

5. Modification or amendment of a corrective action order issued pursuant to MTCA when the MTCA public participation requirements are met and order has already been incorporated by reference into the permit 1

Class 1 modifications requiring prior Agency approval

(5) Permit termination. The director will follow the applicable procedures in WAC 173-303-840, procedures for decision making, in terminating any permit. The following are causes for terminating a permit during its term or for denying a permit renewal application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(c) A determination that the permitted activity endangers public health or the environment and can only be regulated to acceptable levels by permit modification or termination.

NEW SECTION

WAC 173-303-841 Integration with maximum achievable control technology (MACT) standards. 40 CFR 270.235, Options for incinerators and cement and light-weight aggregate kilns to minimize emissions from startup, shutdown, and malfunction events, is incorporated by reference. This is subpart I, Integration with maximum achievable control technology (MACT) standards.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-910 Petitions. (1) General petitions.

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(a) Any person may petition the department to modify or revoke any provision in this chapter. This subsection sets forth general requirements which apply to all such petitions. The remaining subsections of this section describe additional requirements for specific types of petitions.

(b) Each petition must be submitted to the department by certified mail and must include:

- (i) The petitioner's name and address;
- (ii) A statement of the petitioner's interest in the proposed action;
- (iii) A description of the proposed action, including (where appropriate) suggested regulatory language; and
- (iv) A statement of the need and justification for the proposed action, including any supporting tests, studies, or other information.

(c) The department will make a tentative decision to grant or deny the petition and give public notice of the tentative decision in writing. The notice will be distributed to interested persons on a mailing list developed specifically for petitions and persons expressing interest in amendments to this chapter. The public comment period will be a minimum of ~~((forty-five))~~ twenty-one days.

(d) Upon the written request of any interested person, the director may, at his discretion, hold a conference to consider oral comments on the action proposed in the petition. A person requesting a conference must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The director may in any case decide on his own motion to hold a conference.

(e) After evaluating all public comments the department will make a final decision in accordance with RCW 34.05.330 or 34.05.240. The department will either deny the petition in writing (stating its reasons for denial), or grant the petition and, when appropriate, initiate rule-making proceedings in accordance with RCW 34.05.330.

(2) Petitions for equivalent testing or analytical methods.

(a) Any person seeking to add a testing or analytical method to WAC 173-303-110 may petition for a regulatory amendment under this section. To be successful, the person must demonstrate to the satisfaction of the department that the proposed method is equal to or superior to the corresponding method prescribed in WAC 173-303-110, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

(b) Each petition must include, in addition to the information required by subsection (1) of this section:

- (i) A full description of the proposed method, including all procedural steps and equipment used in the method;
- (ii) A description of the types of wastes or waste matrices for which the proposed method may be used;
- (iii) Comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in WAC 173-303-110;
- (iv) An assessment of any factors which may interfere with, or limit the use of, the proposed method; and
- (v) A description of the quality control procedures necessary to ensure the sensitivity, accuracy and precision of the proposed method.

(c) After receiving a petition for an equivalent testing or analytical method, the department may request any additional

information on the proposed method which it may reasonably require to evaluate the proposal.

(d) If the department amends the regulations to permit use of a new testing method, the method will be incorporated in a document which will be available from the department.

(3) Petitions for exempting dangerous wastes from a particular generator.

(a) Any generator seeking to exempt his dangerous waste may petition the department for exemption from the requirements of WAC 173-303-070 through 173-303-100.

(b) To be successful, the generator must make the demonstrations required in WAC 173-303-072(3) and, where applicable, (4).

(c) Each petition must include, in addition to the information required by subsection (1) of this section:

- (i) The name and address of the laboratory facility performing the sampling or tests of the waste;
- (ii) The names and qualifications of the persons sampling and testing the waste;
- (iii) The dates of sampling and testing;
- (iv) The location of the generating facility;
- (v) A description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether such processes, operations, or feed materials can or might produce a waste that is not covered by the demonstration;
- (vi) A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration;
- (vii) Pertinent data on and discussion of the factors delineated in WAC 173-303-072(3) and, where applicable, (4);
- (viii) A description of the methodologies and equipment used to obtain the representative samples;
- (ix) A description of the sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of the samples;
- (x) A description of the tests performed (including results);
- (xi) The names and model numbers of the instruments used in performing the tests and the date of the last calibration for instruments which must be calibrated according to manufacturer's instructions; and
- (xii) The following statement signed by the generator of the waste or his authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(d) After receiving a petition for a dangerous waste exemption, the department may request any additional information which it may reasonably require to evaluate the petition.

(e) An exemption will only apply to the waste generated by the particular generator covered by the demonstration and will not apply to waste from any other generator.

(f) The department may exempt only part of the waste for which the demonstration is submitted where there is reason to believe that variability of the waste justifies a partial exemption.

(g) The department may (but will not be required to) grant a temporary exemption before making a final decision under subsection (1) of this section, whenever it finds that there is a substantial likelihood that an exemption will be finally granted.

(h) Any waste for which an exemption is sought will remain designated and be subject to the applicable requirements of this chapter until the generator of the waste is notified by the department that his waste is exempt.

(4) Petition for exclusion.

(a) Any generators seeking exclusion of a class of similar or identical wastes under WAC 173-303-071, excluded categories of waste, may petition the department for exclusion. To be successful, the generator(s) must make the demonstrations required in WAC 173-303-072(6) for all those wastes generated in the state which might be excluded pursuant to granting a petition submitted under this subsection. No class of wastes will be excluded if any of the wastes are regulated as hazardous waste under 40 CFR Part 261.

(b) Each petition for exclusion must include the information required by subsections (1) and (3)(c) of this section and any other information required by the department.

(c) After receiving a petition for exclusion, the department may request any additional information it deems necessary to evaluate the petition.

(5) Petition for designation change. The provisions of (a)(i) of this subsection do not apply to any dangerous waste which is also designated as a hazardous waste under 40 CFR Part 261 Subpart D.

(a) A generator may petition the department to change the designation of his waste as follows:

(i) A waste which is designated only for toxicity pursuant to WAC 173-303-100 but which is toxic solely because it is highly acidic or basic (i.e., due to high or low pH) may be subject only to the requirements for corrosive dangerous wastes, provided that the generator can demonstrate this fact to the department's satisfaction through information provided under (b) of this subsection; and

(ii) A waste which is designated EHW may be redesignated DW, provided that the generator can demonstrate that such redesignation is appropriate through information provided under (b) of this subsection.

(b) A petition under this subsection must include:

(i) The information required by subsections (1) and (3)(c) of this section; and

(ii) Such other information as required by the department.

(c) A designation change under this subsection will become effective only after the department has approved the change and notified the generator of such approval.

(6) Petitions to allow land disposal of a waste restricted under WAC 173-303-140.

(a) Any person seeking a land disposal restriction exemption allowed under WAC 173-303-140(6) must submit a petition to the department. The petition must include the following general information:

(i) The petitioner's name and address;

(ii) A statement of the petitioner's interest in the proposed action;

(iii) A description of the proposed action;

(iv) A statement of the need and justification for the proposed action;

(v) An identification of the specific waste and the specific land disposal unit for which the exemption is desired;

(vi) A waste analysis to describe fully the chemical and physical characteristics of the subject waste. All waste and environmental sampling, test, and analysis data must be accurate and reproducible to the extent that state-of-the-art techniques allow; and

(vii) A quality assurance and quality control plan that addresses all sampling and testing aspects of the information provided in the petition.

(b) In addition to the general information requirements in subsection (a) of this section, the following specific information must be provided in the petition for individual case-by-case exemptions.

(i) Petition for land disposal exemption for treatment residuals. Petitions for exemption of treatment residuals, as allowed under WAC 173-303-140 (6)(a), must:

(A) Provide the type of waste management or treatment method applied to the waste and the rationale for selecting this method as the best achievable management method; and

(B) Document that the land disposal of the treatment residual would not pose a greater risk to public health and the environment than land disposal of the original wastes, including an analysis of the treatment residuals to fully describe their chemical and physical characteristics; and

(C) Provide the management alternatives for the treatment residuals and the factors which, if an exemption is not granted, would prevent the utilization of the best achievable management method for the original dangerous waste.

(ii) Petition for economic hardship exemption. Petitions for exemption on the basis of economic hardship, as allowed under WAC 173-303-140 (6)(b), must:

(A) Supply the current management costs and the projected management costs to comply with the requirements of WAC 173-303-140; and

(B) Provide the source of information utilized in determining the economic estimates; and

(C) Provide a discussion of how the projected compliance costs would impose an unreasonable economic burden.

(iii) Petition for leachable inorganic waste exemption. Petitions for exemption of leachable inorganic wastes, as allowed under WAC 173-303-140 (6)(c), must:

(A) Provide information demonstrating that the stabilization of the dangerous waste is less protective of public health and the environment than landfilling; or

(B) Provide a list of stabilization facilities that could accept the dangerous waste and information demonstrating that they do not have available capacity to stabilize the waste; or

(C) Provide information describing the types of stabilization utilized which did not reduce the solubility and mobility of the dangerous waste constituents and describe any other stabilization methods that have been considered but not utilized.

(iv) Petition for organic/carbonaceous waste exemption. Petitions for exemption of organic/carbonaceous wastes, as allowed under WAC 173-303-140 (6)(c), must:

(A) Provide information demonstrating that recycling, treatment and incineration facilities are unavailable for the waste, including a map marked both with the point of waste generation and the point(s) of the nearest treatment, recycling and incineration facility(s) that could manage the dangerous waste; or

(B) Provide information demonstrating that the alternative management methods for organic/carbonaceous waste are less protective of public health and the environment than stabilization and landfilling; or

(C) Provide information demonstrating that:

(I) Recycling and treatment facilities are unavailable for the waste, including a map marked both with the point of waste generation and the point(s) of the nearest treatment, recycling and incineration facility(s) that could manage the dangerous waste; and

(II) The organic/carbonaceous waste has a heat content less than 3,000 BTU/LB or a moisture content greater than sixty-five percent.

(c) Each petition must include the following statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(d) Each petition must be submitted to:

Department of Ecology
HWTR Program
Attn Land Disposal Exemption
PO Box 47600
Olympia, WA 98504-7600

(e) After receiving a petition, the department may request any additional information that reasonably may be required to evaluate the petition and accompanying demonstration, such as a comprehensive characterization of the disposal unit site including an analysis of background air, soil, and water quality. Simulation models must be calibrated for the specific waste and site conditions, and verified for accuracy by comparison with actual measurements.

(f)(i) The department will make a tentative decision to grant or deny the petition and give public notice of the tentative decision in writing. The notice will be distributed to interested persons on a mailing list developed specifically for petitions and persons expressing interest in amendments to

this chapter. The public comment period will be a minimum of ~~(forty-five)~~ twenty-one days.

(ii) Upon the written request of any interested person, the department may, at its discretion, hold a conference to consider oral comments on the action proposed in the petition. A person requesting a conference must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The department may in any case decide on its own motion to hold a conference.

(iii) After evaluating all public comments the department will make a final decision in accordance with RCW 34.04.060 or 34.04.080. The department will either deny the petition in writing (stating its reasons for denial), or grant the petition.

(g) Prior to the department's decision, the applicant is required to comply with all restrictions on land disposal under WAC 173-303-140. The department should respond to a petition within ninety days.

(h) If an exemption is granted, the department may include specific conditions as deemed necessary by the department to protect public health and the environment.

(i) If granted, the exemption will apply to land disposal of the specific restricted waste at the individual disposal unit described in the petition and accompanying demonstration. The exemption will not apply to any other restricted waste at that disposal unit, nor will it apply to that specific restricted waste at any other disposal unit.

(j) If an exemption is granted, the department may withdraw the exemption on the following bases:

(i) If there is a threat to public health and the environment; or

(ii) If there is migration of dangerous waste constituents from the land disposal unit or site for as long as the waste remains dangerous; or

(iii) If the department finds reason to believe that the information submitted in a petition is inaccurate or has been falsified such that the petition should have been denied.

(k) The term of an exemption granted under this subsection will be established by the department at the time of issuance.

(l) Any exemption granted by the department does not relieve the petitioner of his responsibilities in the management of dangerous waste under chapter 173-303 WAC.

(m) The department may (but will not be required to) grant a temporary exemption before making a final decision, whenever it finds that there is a substantial likelihood that an exemption will be finally granted. Temporary exemptions will not be subject to the procedures of (f) of this subsection. Temporary exemptions will not be a cause of delaying final decision making on the petition request.

(7) Petitions to amend WAC 173-303-573 to include additional dangerous wastes.

(a) Any person seeking to add a dangerous waste or a category of dangerous waste to the universal waste regulations of WAC 173-303-573 may petition for a regulatory amendment under this section and WAC 173-303-573 (39) and (40).

(b) To be successful, the petitioner must demonstrate to the satisfaction of the department that regulation under the universal waste regulations of WAC 173-303-573: Is appro-

appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the dangerous waste program. The petition must include the information required by subsection (1) of this section. The petition should also address as many of the factors listed in WAC 173-303-573(40) as are appropriate for the waste or category of waste addressed in the petition.

(c) The department will grant or deny a petition using the factors listed in WAC 173-303-573(40). The decision will be based on the weight of evidence showing that regulation under WAC 173-303-573 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the dangerous waste program.

(d) The department may request additional information needed to evaluate the merits of the petition.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-960 Special powers and authorities of the department. (1) Applicability. This section applies to departmental powers and authorities when taking actions against activities that may present an imminent and substantial endangerment to health or the environment.

(2) Notwithstanding any other provision of this chapter, upon receipt of evidence or with due cause the department believes that the handling, storage, treatment, transportation, recycling, or disposal of any dangerous waste or solid waste may present (~~an imminent and substantial endangerment~~) a significant threat to health or the environment, the department may:

(a) Authorize an agency inspector to enter at reasonable times establishments regulated under this chapter for the purposes of inspection, monitoring, and sampling; and

(b) Direct the attorney general to bring suit on behalf of the state to immediately restrain any person contributing to such handling, storage, treatment, transportation, recycling, or disposal to immediately stop such handling, storage, treatment, transportation, recycling, or disposal or to take such other action as may be necessary.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-9904 Dangerous waste sources list. The following Hazard Codes are used to indicate the basis EPA used for listing the classes or types of wastes listed in this section:

- Ignitable Waste (I)
- Corrosive Waste (C)
- Reactive Waste (R)
- Toxicity Characteristic Waste (E)
- Acute Hazardous Waste (H)
- Toxic Waste (T)

DANGEROUS WASTE SOURCES LIST

Dangerous Waste No.	Sources
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Nonspecific Sources

Generic:

- | | |
|------|---|
| F001 | The following spent halogenated solvents used in degreasing: Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; all spent solvent mixtures/blends used in degreasing containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (T) |
| F002 | The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane and 1,1,2 trichloroethane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those listed in F001, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (T) |
| F003 | The following spent nonhalogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures/blends containing, before use, only the above spent nonhalogenated solvents; and all spent solvent mixtures/blends containing, before use, one or more of the above nonhalogenated solvents, and, a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (I) |

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Dangerous Waste No.	Sources	Dangerous Waste No.	Sources
F004	The following spent nonhalogenated solvents: Cresols and cresylic acid, nitrobenzene; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above nonhalogenated solvents or those solvents listed in F001, F002, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (T)	F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. (T)
F005	The following spent nonhalogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above nonhalogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (I,T)	F020	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of hexachlorophene from highly purified 2,4,5-trichlorophenol.) (See footnote 1, below.) (H)
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum. (T)	F021	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives. (See footnote 1, below.) (H)
F007	Spent cyanide plating bath solutions from electroplating operations. (R,T)	F022	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions. (See footnote 1, below.) (H)
F008	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process. (R,T)	F023	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (See footnote 1, below.) (This listing does not include wastes from equipment used only for the production or use of hexachlorophene from highly purified 2,4,5-trichlorophenol.) (H)
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process. (R,T)		
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process. (R,T)		
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations. (R,T)		
F012	Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process. (T)		

Dangerous Waste No.	Sources	Dangerous Waste No.	Sources
F024	Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in this section.) (T)	F032	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drip-page, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations (except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with WAC 173-303-083 or potentially cross-contaminated wastes that are otherwise currently regulated as dangerous wastes (i.e., F034 or F035), and where the generator does not resume or initiate use of chlorophenolic formulations). This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (T)
F025	Condensed light ends, spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (T)	F034	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drip-page, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (T)
F026	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions. (See footnote 1, below.) (H)	F035	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drip-page, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (T)
F027	Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (See footnote 1, below.) (This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.) (H)	F037	Petroleum refinery primary oil/water/solids separation sludge-Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in:
F028	Residues resulting from the incineration or thermal treatment of soil contaminated with nonspecific sources wastes F020, F021, F022, F023, F026 and F027. (T)		

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Dangerous Waste No. Sources

Dangerous Waste No. Sources

Oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludge generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in footnote 2, below (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and K051 wastes are not included in this listing. This listing does include residuals generated from processing or recycling oil-bearing hazardous secondary materials excluded under WAC 173-303-071 (3)(cc)(i), if those residuals are to be disposed of. (See footnote 2, below.) (T)

F038

Petroleum refinery secondary (emulsified) oil/water/solids separation sludge-Any sludge and/or float generated from the physical and/or chemical separation of oil/water/solids in process wastewaters and oily cooling wastewaters from petroleum refineries. Such wastes include, but are not limited to, all sludges and floats generated in: Induced air flotation (IAF) units, tanks and impoundments, and all sludges generated in DAF units. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges and floats generated in aggressive biological treatment units as defined in footnote 2, below (including sludges and floats generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and F037, K048, and K051 wastes are not included in this listing. (See footnote 2, below.) (T)

F039 Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as dangerous under WAC 173-303-9903, 173-303-9904, and 173-303-9905. (Leachate resulting from the disposal of one or more of the following dangerous wastes, and no other dangerous wastes, retains its Dangerous Waste Number(s): F020, F021, F022, F026, F027, and/or F028.) (T)

Specific Sources

Wood Preservation:

K001 Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol. (T)

Inorganic Pigments:

- K002 Wastewater treatment sludge from the production of chrome yellow and orange pigments. (T)
- K003 Wastewater treatment sludge from the production of molybdate orange pigments. (T)
- K004 Wastewater treatment sludge from the production of zinc yellow pigments. (T)
- K005 Wastewater treatment sludge from the production of chrome green pigments. (T)
- K006 Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated). (T)
- K007 Wastewater treatment sludge from the production of iron blue pigments. (T)
- K008 Oven residue from the production of chrome oxide green pigments. (T)

Organic Chemicals:

- K009 Distillation bottoms from the production of acetaldehyde from ethylene. (T)
- K010 Distillation side cuts from the production of acetaldehyde from ethylene. (T)
- K011 Bottom stream from the wastewater stripper in the production of acrylonitrile. (R,T)

Dangerous Waste No.	Sources	Dangerous Waste No.	Sources
K013	Bottom stream from the acetonitrile column in the production of acrylonitrile. (R,T)	K030	Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene. (T)
K014	Bottoms from the acetonitrile purification column in the production of acrylonitrile. (T)	K083	Distillation bottoms from aniline production. (T)
K015	Still bottoms from the distillation of benzyl chloride. (T)	K103	Process residues from aniline extraction from the production of aniline. (T)
K016	Heavy ends or distillation residues from the production of carbon tetrachloride. (T)	K104	Combined wastewater streams generated from nitrobenzene/aniline production. (T)
K017	Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin. (T)	K085	Distillation of fractionation column bottoms from the production of chlorobenzenes. (T)
K018	Heavy ends from the fractionation column in ethyl chloride production. (T)	K105	Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes. (T)
K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production. (T)	K107	Column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazines. (C,T)
K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production. (T)	K108	Condensed column overheads from product separation and condensed reactor vent gases from the production of 1,1-dimethylhydrazine (UDMH) from the carboxylic acid hydrazides. (I,T)
K021	Aqueous spent antimony catalyst waste from fluoromethanes production. (T)	K109	Spent filter cartridges from product purification from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides. (T)
K022	Distillation bottom tars from the production of phenol/acetone from cumene. (T)	K110	Condensed column overheads from intermediate separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides. (T)
K023	Distillation light ends from the production of phthalic anhydride from naphthalene. (T)	K111	Product washwaters from the production of dinitrotoluene via nitration of toluene. (C,T)
K024	Distillation bottoms from the production of phthalic anhydride from naphthalene. (T)	K112	Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)
K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene. (T)	K113	Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)
K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene. (T)	K114	Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)
K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene. (T)	K115	Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)
K026	Stripping still tails from the production of methyl ethyl pyridines. (T)		
K027	Centrifuge and distillation residues from toluene diisocyanate production. (R,T)		
K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane. (T)		
K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane. (T)		
K095	Distillation bottoms from the production of 1,1,1-trichloroethane. (T)		
K096	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane. (T)		

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Dangerous Waste No.	Sources	Dangerous Waste No.	Sources
K116	Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine. (T)	K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) (T)
K117	Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene. (T)	K159	Organics from the treatment of thiocarbamate wastes. (T)
K118	Spent adsorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene. (T)	K161	Purification solids (including filtration, evaporation, and centrifugation solids), bag house dust and floor sweepings from the production of dithiocarbamate acids and their salts. (R,T)
K136	Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene. (T)	<u>K174</u>	<u>Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer (including sludges that result from commingled ethylene dichloride or vinyl chloride monomer wastewater and other wastewater), unless the sludges meet the following conditions:</u>
K149	Distillation bottoms from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (This waste does not include still bottoms from the distillation of benzyl chloride.) (T)		<u>(i) They are disposed of in a hazardous waste or nonhazardous landfill licensed or permitted by the state or federal government;</u>
K150	Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of alpha-(or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (T)		<u>(ii) They are not otherwise placed on the land prior to final disposal; and</u>
K151	Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha-(or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (T)		<u>(iii) The generator maintains documentation demonstrating that the waste was either disposed of in an on-site landfill or consigned to a transporter or disposal facility that provided a written commitment to dispose of the waste in an off site landfill.</u>
K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) (T)		<u>Respondents in any action brought to enforce the requirements of the Hazardous Waste Management Act or dangerous waste regulations must, upon a showing by the government that the respondent managed wastewater treatment sludges from the production of vinyl chloride monomer or ethylene dichloride, demonstrate that they meet the terms of the exclusion set forth above. In doing so, they must provide appropriate documentation (e.g., contracts between the generator and the landfill owner/operator, invoices documenting delivery of waste to landfill, etc.) that the terms of the exclusion were met. (T)</u>
K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) (T)	<u>K175</u>	<u>Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process. (T)</u>

Dangerous
Waste No. Sources

Explosives:

- K044 Wastewater treatment sludges from the manufacturing and processing of explosives. (R)
- K045 Spent carbon from the treatment of wastewater containing explosives. (R)
- K046 Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds. (T)
- K047 Pink/red water from TNT operations. (R)

Inorganic Chemicals:

- K071 Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used. (T)
- K073 Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production. (T)
- K106 Wastewater treatment sludge from the mercury cell process in chlorine production. (T)
- K176 Baghouse filters from the production of antimony oxide, including filters from the production of intermediates (e.g., antimony metal or crude antimony oxide). (E)
- K177 Slag from the production of antimony oxide that is speculatively accumulated or disposed, including slag from the production of intermediates (e.g., antimony metal or crude antimony oxide). (T)
- K178 Residues from manufacturing and manufacturing-site storage of ferric chloride from acids formed during the production of titanium dioxide using the chloride-ilmenite process. (T)

Petroleum Refining:

- K048 Dissolved air flotation (DAF) float from the petroleum refining industry. (T)
- K049 Slop oil emulsion solids from the petroleum refining industry. (T)
- K050 Heat exchanger bundle cleaning sludge from the petroleum refining industry. (T)
- K051 API separator sludge from the petroleum refining industry. (T)
- K052 Tank bottoms (leaded) from the petroleum refining industry. (T)

Dangerous
Waste No. Sources

- K169 Crude oil storage tank sediment from petroleum refining operations. (T)
- K170 Clarified slurry oil tank sediment and/or in-line filter/separation solids from petroleum refining operations. (T)
- K171 Spent hydrotreating catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors (this listing does not include inert support media). (I,T)
- K172 Spent hydrorefining catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors (this listing does not include inert support media). (I,T)

Iron and Steel:

- K061 Emission control dust/sludge from the primary production of steel in electric furnaces. (T)
- K062 Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (~~(((SIC Codes 331 and 332))~~ NAICS codes 331111 and 332111). (C,T)

Pesticides:

- K031 Byproduct salts generated in the production of MSMA and cacodylic acid. (T)
- K032 Wastewater treatment sludge from the production of chlordane. (T)
- K033 Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane. (T)
- K034 Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane. (T)
- K097 Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane. (T)
- K035 Wastewater treatment sludges generated in the production of creosote. (T)
- K036 Still bottoms from toluene reclamation distillation in the production of disulfoton. (T)
- K037 Wastewater treatment sludges from the production of disulfoton. (T)

PROPOSED

PROPOSED

Dangerous Waste No.	Sources
K038	Wastewater from the washing and stripping of phorate production. (T)
K039	Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate. (T)
K040	Wastewater treatment sludge from the production of phorate. (T)
K041	Wastewater treatment sludge from the production of toxaphene. (T)
K098	Untreated process wastewater from the production of toxaphene. (T)
K042	Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T. (T)
K043	2,6-Dichlorophenol waste from the production of 2,4-D. (T)
K099	Untreated wastewater from the production of 2,4-D. (T)
K123	Process wastewater (including supernates, filtrates, and wastewaters) from the production of ethylenebisdithiocarbamic acid and its salts. (T)
K124	Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts. (C,T)
K125	Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts. (T)
K126	Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts. (T)
K131	Wastewater from the reactor and spent sulfuric acid from the acid dryer from the production of methyl bromide. (C,T)
K132	Spent absorbent and wastewater separator solids from the production of methyl bromide. (T)
((Primary Copper:	
K064	Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production. (T)

Primary Lead:

Dangerous Waste No.	Sources
K065	Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities. (T)
Primary Zinc:	
K066	Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production. (T))
Primary Aluminum:	
K088	Spent potliners from primary aluminum reduction. (T)
((Ferroalloys:	
K090	Emission control dust or sludge from ferrochromium-silicon production. (T)
K091	Emission control dust or sludge from ferrochromium production. (T))
Secondary Lead:	
K069	Emission control dust/sludge from secondary lead smelting. (T)
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting. (T)
Veterinary Pharmaceuticals:	
K084	Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)
K101	Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)
K102	Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)

Ink Formulation:

PROPOSED

Dangerous Waste No.	Sources		
		a	For the purposes of the F037 and F038 listings, oil/water/solids is defined as oil and/or water and/or solids.
K086	Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead. (T)	b(i)	For the purposes of the F037 and F038 listings, aggressive biological treatment units are defined as units which employ one of the following four treatment methods: Activated sludge; trickling filter; rotating biological contactor for the continuous accelerated biological oxidation of wastewaters; or high-rate aeration. High-rate aeration is a system of surface impoundments or tanks, in which intense mechanical aeration is used to completely mix the wastes, enhance biological activity, and (A) the units employs a minimum of 6 hp per million gallons of treatment volume; and either (B) the hydraulic retention time of the unit is no longer than 5 days; or (C) the hydraulic retention time is no longer than 30 days and the unit does not generate a sludge that is a dangerous waste by the Toxicity Characteristic.
Coking:			
K060	Ammonia still-lime sludge from coking operations. (T)		
K087	Decanter tank tar sludge from coking operations. (T)		
K141	Process residues from the recovery of coal tar, including, but not limited to, collecting sump residues from the production of coke from coal or the recovery of coke by-products produced from coal. This listing does not include K087 (decanter tank tar sludges from coking operations).	(ii)	Generators and treatment, storage and disposal facilities have the burden of proving that their sludges are exempt from listing as F037 and F038 wastes under this definition. Generators and treatment, storage and disposal facilities must maintain, in their operating or other on-site records, documents and data sufficient to prove that: (A) The unit is an aggressive biological treatment unit as defined in this subsection; and (B) the sludges sought to be exempted from the definitions of F037 and/or F038 were actually treated in the aggressive biological treatment unit.
K142	Tar storage tank residues from the production of coke from coal or from the recovery of coke by-products produced from coal.		
K143	Process residues from the recovery of light oil, including, but not limited to, those generated in stills, decanters, and wash oil recovery units from the recovery of coke by-products produced from coal.		
K144	Wastewater sump residues from light oil refining, including, but not limited to, intercepting or contamination sump sludges from the recover of coke by-products produced from coal.	c(i)	For the purposes of the F037 listing, sludges are considered to be generated at the moment of deposition in the unit, where deposition is defined as at least a temporary cessation of lateral particle movement.
K145	Residues from naphthalene collection and recovery operations from the recovery of coke by-products produced from coal.	(ii)	For the purposes of the F038 listing,
K147	Tar storage tank residues from coal tar refining.	(A)	Sludges are considered to be generated at the moment of deposition in the unit, where deposition is defined as at least a temporary cessation of lateral particle movement and
K148	Residues from coal tar distillation, including but not limited to, still bottoms.	(B)	Floats are considered to be generated at the moment they are formed in the top of the unit.

Footnotes

- 1 For wastes listed with the dangerous waste numbers F020, F021, F022, F023, F026, or F027 the quantity exclusion limit is 2.2 lbs. (1 kg) per month or per batch.
- 2 Listing Specific Definitions:

State Sources

(W001) Discarded transformers, capacitors or bushings containing polychlorinated biphenyls (PCB) at concentrations of 2 parts per million or greater (except when drained of all free flowing liquid) and the following wastes generated from the salvaging, rebuilding, or discarding of transformers, capacitors or bushings containing polychlorinated biphenyls (PCB) at concentrations of 2 parts per million or greater: Cooling and insulating fluids and cores, including core papers. (Note—Certain PCB wastes are excluded from this listing under WAC 173-303-071 (3)(k). The generator should check that section to determine if their PCB waste is excluded from the requirements of chapter 173-303 WAC.)

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-9905 Dangerous waste constituents list.

A2213 (Ethanimidothioic acid, 2- (dimethylamino) -N-hydroxy-2-oxo-, methyl ester)
 Acetic Acid, 2,4,5-trichlorophenoxy-, salts and esters (2,4,5-T, salts and esters)
 Acetonitrile [Ethanenitrile]
 Acetophenone (Ethanone, 1-phenyl)
 -(alpha-Acetylbenzyl)-4-hydroxycoumarin and salts (Warfarin)
 2-Acetylaminofluorene (Acetamide, N-9H- fluoren-2-yl-)
 Acetyl chloride (Ethanoyl chloride)
 1-Acetyl-2-thiourea (Acetamide, N-(aminothioxomethyl)-)
 Acrolein (2-Propenal)
 Acrylamide (2-Propenamide)
 Acrylonitrile (2-Propenenitrile)
 Aflatoxins
 Aldicarb sulfone (Propanal, 2-methyl-2-(methylsulfonyl) -, O-[(methylamino) carbonyl] oxime)
 Aldrin (1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a,-hexahydro-endo,exo- 1,4:5,8-Dimethanonaphthalene)
 Allyl alcohol (2-Propen-1-ol)
 Allyl chloride (1-Propane, 3-chloro)
 Aluminum phosphide
 4-Aminobiphenyl ([1,1'-Biphenyl]-4-amine)
 6-Amino-1,1a,2,8,8a,8b-hexahydro-8- (hydroxymethyl) -8a-methoxy-5-methyl- carbamate azirino-[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, (ester) (Mitomycin C) (Azirino[2'3':3,4]pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8[
 4-Aminopyridine(4-Pyridinamine)
 Amitrole (1H-1,2,4-Triazol-3-amine)
 Aniline (Benzenamine)
 Antimony and compounds, N.O.S.*
 Aramite (Sulfurous acid 2-chloroethyl 2-[4-(1,1-dimethylethyl)phenoxy]-1-methylethyl ester) Arsenic and compounds, N.O.S.*

Barban (Carbamic acid, (3-chlorophenyl) -, 4-chloro-2-butynyl ester)
 Barium and compounds, N.O.S.*
 Barium cyanide
 Bendiocarb (1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate)
 Bendiocarb phenol (1,3-Benzodioxol-4-ol, 2,2-dimethyl-,)
 Benomyl (Carbamic acid, [1- [(butylamino) carbonyl]-1H-benzimidazol-2-yl] -, methyl ester)
 Benz[c]acridine (3,4-Benzacridine)
 Benz[a]anthracene (1,2-Benzanthracene)
 Benzene (Cyclohexatriene)
 Benzenearsonic acid (Arsonic acid, phenyl-)
 Benzene, 2-amino-1-methyl (o-Toluidine)
 Benzene, 4-amino-1-methyl (p-Toluidine)
 Benzene, dichloromethyl- (Benzal chloride)
 Benzenethiol (Thiophenol)
 Benzidine ([1,1'-Biphenyl]-4,4'diamine)
 Benzo[b]fluoranthene (2,3-Benzofluoranthene)
 Benzo(k)fluoranthene
 Benzo[j]fluoranthene (7,8-Benzofluoranthene)
 Benzo[a]pyrene (3,4-Benzopyrene)
 p Benzoquinone (1,4-Cyclohexadienedione)
 Benzotrichloride (Benzene, trichloromethyl-)
 Benzyl chloride (Benzene, (chloromethyl)-)
 Beryllium powder
 Beryllium compounds, N.O.S.*
 Bis(2-chloroethoxy)methane (Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-])
 Bis(2-chloroethyl) ether (Ethane, 1,1'-oxybis[2-chloro-])
 N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornaphazine)
 Bis(2-chloroisopropyl) ether (Propane, 2,2'-oxybis[2-chloro-])
 Bis(chloromethyl) ether (Methane, oxybis[chloro-])
 Bis(2-ethylhexyl) phthalate (1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester)
 Bis(pentamethylene)-thiuram tetrasulfide (Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-)
 Bromoacetone (2-Propanone, 1-bromo-)
 Bromomethane (Methyl bromide)
 4-Bromophenyl phenyl ether (Benzene, 1-bromo-4-phenoxy-)
 Brucine (Strychnidin-10-one, 2,3-dimethoxy-)
 2-Butanone peroxide (Methyl ethyl ketone, peroxide)
 Butyl benzyl phthalate (1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester)
 2-sec-Butyl-4,6-dinitrophenol (DNBP) (Phenol, 2,4-dinitro-6-(1-methylpropyl)-)
 Butylate (Carbamothioic acid, bis(2 methylpropyl)-, S-ethyl ester)
 Cadmium and compounds, N.O.S.*
 Calcium chromate (Chromic acid, calcium salt)
 Calcium cyanide
 Carbamic Acid, ethyl ester
 Carbaryl (1-Naphthalenol methylcarbamate)
 Carbendazim (Carbamic acid, 1H-benzimidazol-2-yl, methyl ester)

- Carbofuran (7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate)
- Carbofuran phenol (7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-)
- Carbon disulfide (Carbon bisulfide)
- Carbon oxyfluoride (Carbonyl fluoride)
- Carbosulfan (Carbamic acid, [(dibutylamino) thio] methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester)
- Chloral (Acetaldehyde, trichloro-)
- Chlorambucil (Butanoic acid, 4-[bis(2-chloroethyl)amino]benzene-)
- Chlordane (alpha and gamma isomers) (4,7-Methanoin-dan, 1,2,4,5,6,7,8,8-octachloro-3,4,7,7a-tetrahydro-) (alpha and gamma isomers)
- Chlorinated benzenes, N.O.S.*
- Chlorinated ethane, N.O.S.*
- Chlorinated fluorocarbons, N.O.S.*
- Chlorinated naphthalene, N.O.S.*
- Chlorinated phenol, N.O.S.*
- Chloroacetaldehyde (Acetaldehyde, chloro-)
- Chloroalkyl ethers, N.O.S.*
- p-Chloroaniline (Benzenamine, 4-chloro-)
- Chlorobenzene (Benzene, chloro-)
- Chlorobenzilate (Benzenoacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-,ethyl ester)
- 2-Chloro-1,3-butadiene
- p-Chloro-m-cresol (Phenol, 4-Chloro-3-methyl)
- 1-Chloro-2,3-epoxypropane (Oxirane, 2-(chloromethyl)-)
- 2-Chloroethyl vinyl ether (Ethene, (2-chloroethoxy)-)
- Chloroform (Methane, trichloro-)
- Chloromethane (Methyl chloride)
- Chloromethyl methyl ether (Methane, chloromethoxy-)
- 2-Chloronaphthalene (Naphthalene, beta-chloro-)
- 2-Chlorophenol (Phenol, o-chloro-)
- 1-(o-Chlorophenyl)thiourea (Thiourea, (2-chlorophenyl)-)
- 3-Chloropropene
- 3-Chloropropionitrile (Propanenitrile, 3-chloro-) Chromium and compounds, N.O.S.*
- Chrysene (1,2-Benzphenanthrene)
- Citrus red No. 2 (2-Naphthol, 1-[(2,5-dimethoxyphenyl)azo]-)
- Coal tar creosote
- Copper cyanide
- Copper dimethyldithiocarbamate (Copper, bis(dimethyl-carbamodithioato-S,S')-)
- Creosote
- Cresols (Cresylic acid) (Phenol, methyl-)
- Crotonaldehyde (2-Butenal)
- m-Cumenyl methylcarbamate (Phenol, 3-(methylethyl)-, methyl carbamate)
- Cyanides (soluble salts and complexes), N.O.S.*
- Cyanogen (Ethanedinitrile)
- Cyanogen bromide (Bromine cyanide)
- Cyanogen chloride (Chlorine cyanide)
- Cycasin (beta-D-Glucopyranoside, (methyl-ONN-azoxy)methyl-)
- Cycloate (Carbamothioic acid, cyclohexylethyl-, S-ethyl ester)
- 2-Cyclohexyl-4,6-dinitrophenol (Phenol, 2-cyclohexyl-4,6-dinitro-)
- Cyclophosphamide (2H-1,3,2,-Oxazaphosphorine, [bis(2-chloroethyl)amino]-tetrahydro-, 2-oxide)
- Daunomycin (5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxohexopyranosyl]oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-)
- Dazomet (2H-1,3,5-thiadiazine-2-thione, tetrahydro-3,5-dimethyl-)
- DDD (Dichlorodiphenyldichloroethane) (Ethane, 1,1-dichloro-2,2-bis(p chlorophenyl)-)
- DDE (Ethylene, 1,1-dichloro-2,2-bis(4-chlorophenyl)-)
- DDT (Dichlorodiphenyltrichloroethane) (Ethane, 1,1,1-trichloro-2,2-bis(p-chlorophenyl)-)
- Diallate (S-(2,3-dichloroallyl) diisopropylthiocarbamate)
- Dibenz[a,h]acridine (1,2,5,6-Dibenzacridine)
- Dibenz[a,j]acridine (1,2,7,8-Dibenzacridine)
- Dibenz[a,h]anthracene (1,2,5,6-Dibenzanthracene)
- 7H-Dibenzo[c,g]carbazole (3,4,5,6-Dibenzcarbazole)
- Dibenzo[a,e]pyrene (1,2,4,5-Dibenzpyrene)
- Dibenzo[a,h]pyrene (1,2,5,6-Dibenzpyrene)
- Dibenzo[a,i]pyrene (1,2,7,8-Dibenzpyrene)
- 1,2-Dibromo-3-chloropropane (Propane, 1,2-dibromo-3-chloro-)
- 1,2-Dibromoethane (Ethylene dibromide)
- Dibromomethane (Methylene bromide)
- Di-n-butyl phthalate (1,2-Benzenedicarboxylic acid, dibutyl ester)
- o-Dichlorobenzene (Benzene, 1,2-dichloro-)
- m-Dichlorobenzene (Benzene, 1,3-dichloro-)
- p-Dichlorobenzene (Benzene, 1,4-dichloro-)
- Dichlorobenzene, N.O.S.* (Benzene, dichloro-, N.O.S.*)
- 3,3'-Dichlorobenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-)
- 1,4-Dichloro-2-butene (2-Butene, 1,4-Butene, 1,4-dichloro-)
- Dichlorodifluoromethane (Methane, dichlorodifluoro-)
- 1,1-Dichloroethane (Ethylidene dichloride)
- 1,2-Dichloroethane (Ethylene dichloride)
- trans-1,2-Dichloroethene (1,2-Dichloroethylene)
- Dichloroethylene, N.O.S.* (Ethene, dichloro-, N.O.S.*)
- 1,1-Dichloroethylene (Ethene, 1,1-dichloro-)
- Dichloromethane (Methylene chloride)
- 2,4-Dichlorophenol (Phenol, 2,4-dichloro-)
- 2,6-Dichlorophenol (Phenol, 2,6-dichloro)
- 2,4-Dichlorophenoxyacetic acid (2,4-D), salts and esters (Acetic acid, 2,4-dichlorophenoxy-, salts and esters)
- Dichlorophenylarsine (Phenyl dichloroarsine)
- Dichloropropane, N.O.S.* (Propane, dichloro-, N.O.S.*)
- 1,2-Dichloropropane (Propylene dichloride)
- Dichloropropanol, N.O.S.* (Propanol, dichloro-, N.O.S.*)
- Dichloropropene, N.O.S.* (Propene, dichloro-, N.O.S.*)
- 1,3-Dichloropropene, (1-Propene, 1,3-dichloro-)

- Dieldrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octa-hydro-endo, exo-1,4:5,8-Dimethanonaphthalene)
 1,2:3,4-Diepoxybutane (2,2'-Bioxirane)
 Diethylarsine (Arsine, diethyl-)
 N,N'-Diethylhydrazine (Hydrazine, 1,2-diethyl)
 O,O-Diethyl S-methyl ester of phosphorodithioic acid (Phosphorodithioic acid, O,O-diethyl S-methyl ester)
 O,O-Diethylphosphoric acid, O-p-nitrophenyl ester (Phosphoric acid, diethyl p-nitrophenyl ester)
 Diethyl phthalate (1,2-Benzenedicarboxylic acid, diethyl ester)
 O,O-Diethyl O-2-pyrazinyl phosphorothioate (Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester)
 Diethylene glycol, dicarbamate (Ethanol, 2,2'-oxybis-, dicarbamate)
 Diethylstilbesterol (4,4'-Stilbenediol, alpha,alpha-diethyl, bis(dihydrogen phosphate, (E)-)
 Dihydrosafrole (Benzene, 1,2-methylenedioxy-4-propyl-)
 3,4-Dihydroxy-alpha-(methylamino)methyl benzyl alcohol (1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-)
 Diisopropylfluorophosphate (DFP) (Phosphorofluoric acid, bis(1-methylethyl) ester)
 Dimethoate (Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester)
 3,3'-Dimethoxybenzidine ([1,1'-Biphenyl]-4,4'diamine, 3-3'dimethoxy-)
 p-Dimethylaminoazobenzene (Benzenamine, N,N-dimethyl-4-(phenylazo)-)
 7,12-Dimethylbenz[a]anthracene (1,2-Benzanthracene, 7,12-dimethyl-)
 3,3'-Dimethylbenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-)
 Dimethylcarbamoyl chloride (Carbamoyl chloride, dimethyl-)
 1,1-Dimethylhydrazine (Hydrazine, 1,1-dimethyl-)
 1,2-Dimethylhydrazine (Hydrazine, 1,2-dimethyl-)
 3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino) carbonyl]oxime (Thiofanox)
 alpha,alpha-Dimethylphenethylamine (Ethanamine, 1,1-dimethyl-2-phenyl)
 2,4-Dimethylphenol (Phenol, 2,4-dimethyl-)
 Dimethyl phthalate (1,2-Benzenedicarboxylic acid, dimethyl ester)
 Dimethyl sulfate (Sulfuric acid, dimethyl ester)
 Dimetilan (Carbamic acid, dimethyl-, 1-[(dimethylamino) carbonyl]-5-methyl-1H-pyrazol-3-yl ester)
 Dinitrobenzene, N.O.S.* (Benzene, dinitro-, N.O.S.*
 4,6-Dinitro-o-cresol and salts (Phenol, 2,4-dinitro-6-methyl-, and salts)
 2,4-Dinitrophenol (Phenol, 2,4-dinitro-)
 2,4-Dinitrotoluene (Benzene, 1-methyl-2,4-dinitro-)
 2,6-Dinitrotoluene (Benzene, 1-methyl-2,6-dinitro-)
 Dinoseb (Phenol, 2-(1-methylpropyl)-4,6-dinitro-)
 Di-n-octyl phthalate (1,2-Benzenedicarboxylic acid, dioctyl ester)
 1,4-Dioxane (1,4-Diethylene oxide)
 Diphenylamine (Benzenamine, N-Phenyl-)
 1,2-Diphenylhydrazine (Hydrazine, 1,2-diphenyl-)
 Di-n-propylmitrosamine (N-Nitroso-di-n-propylamine)
 Disulfiram (Thioperoxydicarbonic diamide, tetraethyl)
 Disulfoton (O,O-diethyl S-[2-(ethylthio)ethyl] phosphorodithioate)
 Dithiobiuret (Thioimidodicarbonic diamide [(H₂N)C(S)]₂NH)
 EPTC (Carbamothioic acid, dipropyl-, S-ethyl ester)
 Endosulfan (5-Norbornene, 2,3-dimethanol, 1,4,5,6,7,7-hexachloro-, cyclic sulfite)
 Endrin and metabolites (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethanonaphthalene, and metabolites)
 Ethyl carbamate (Urethan) (Carbamic acid, ethyl ester)
 Ethyl cyanide (propanenitrile)
 Ethyl ziram (Zinc, bis(diethylcarbamodithioato- S,S')-)
 Ethylenebisdithiocarbamic acid, salts and esters (1,2-Ethanediylobiscarbamodithioic acid, salts and esters.
 Ethylene glycol monoethyl ether (2-Ethoxyethanol)
 Ethyleneimine (Aziridine)
 Ethylene oxide (Oxirane)
 Ethylenethiourea (2-Imidazolidinethione)
 Ethylmethacrylate (2-Propenoic acid, 2-methyl-, ethyl ester)
 Ethyl methanesulfonate (Methanesulfonic acid, ethyl ester)
 Ferbam (Iron, tris(dimethylcarbamodithioato- S,S')-)
 Fluoranthene (Benzo[j,k]fluorene)
 Fluorine
 2-Fluoroacetamide (Acetamide, 2-fluoro-)
 Fluoroacetic acid, sodium salt (Acetic acid, fluoro-, sodium salt)
 Formaldehyde (Methylene, oxide)
 Formetanate hydrochloride (Methanimidamide, N,N-dimethyl-N'-[3-[(methylamino) carbonyl]oxy]phenyl]-, monohydrochloride)
 Formic acid (Methanoic acid)
 Formparanate (Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[(methylamino) carbonyl]oxy]phenyl]-)
 Glycidylaldehyde (1-Propanol-2,3-epoxy)
 Halomethane, N.O.S.*
 Heptachlor (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-)
 Heptachlor epoxide (alpha, beta, and gamma isomers) (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-2,3-epoxy-3a,4,7,7-tetrahydro-, alpha, beta and gamma isomers)
 Heptachlorodibenzofurans
 Heptachlorodibenzo-p-dioxins
 Hexachlorobenzene (Benzene, hexachloro-)
 Hexachlorobutadiene (1,3-Butadiene, hexachloro-)
 Hexachlorocyclohexane (all isomers) (Lindane and isomers)
 Hexachlorocyclopentadiene (1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-)
 Hexachlorodibenzo-p-dioxins
 Hexachlorodibenzofurans
 Hexachloroethane (Ethane, hexachloro-)
 1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,endo-dimethanonphthalene

- (Hexachlorohexahydro-endo,endo-dimethanonaphthalene)
- Hexachlorophene (2,2'-Methylenebis(3,4,6-trichlorophenol))
- Hexachloropropene (Propene, hexachloro-)
- Hexaethyl tetraphosphate (Tetraphosphoric acid, hexaethyl ester)
- Hydrazine (Diamine)
- Hydrocyanic acid (Hydrogen cyanide)
- Hydrofluoric acid (Hydrogen fluoride)
- Hydrogen sulfide (Sulfur hydride)
- Hydroxydimethylarsine oxide (Cacodylic acid)
- Indeno(1,2,3-cd)pyrene (1,10-(1,2-phenylene)pyrene)
- 3-Iodo-2-propynyl n-butylcarbamate (Carbamic acid, butyl-, 3-iodo-2-propynyl ester)
- Iodomethane (Methyl iodide)
- Isocyanic acid, methyl ester (Methyl isocyanate) Isobutyl alcohol (1-Propanol, 2-methyl-)
- Isolan (Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester)
- Isosafrole (Benzene, 1,2-methylenedioxy-4-allyl-)
- Kepone (Decachlorooctahydro-1,3,4-Methano-2H-cyclobuta[cd]pentalene-2-one)
- Lasiocarpine (2-Butanoic acid, 2-methyl-,7-[(2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy)methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester)
- Lead and compounds, N.O.S.*
- Lead acetate (Acetic acid, lead salt)
- Lead phosphate (Phosphoric acid, lead salt)
- Lead subacetate (Lead, bis(acetato-O)tetrahydroxytri-)
- Maleic anhydride (2,5-Furandione)
- Maleic hydrazide (1,2-Dihydro-3,6-pyridazinedione)
- Malononitrile (Propanedinitrile)
- Manganese dimethylthiocarbamate (Manganese, bis(dimethylcarbamodithioato-S,S')-)
- Melphalan (Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-L-)
- Mercury Fulminate (Fulminic acid, mercury salt)
- Mercury and compounds, N.O.S.*
- Metam sodium (Carbamodithioic acid, methyl-, monosodium salt)
- Methacrylonitrile (2-Propenenitrile, 2-methyl-)
- Methanethiol (Thiomethanol)
- Methapyrilene (Pyridine, 2-[(2-dimethylamino)ethyl]-2-thenylamino-)
- Methiocarb (Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate)
- Metholonyl (Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-,methyl ester)
- Methoxychlor (Ethane, 1,1,1-trichloro-2,2'-bis(p-methoxyphenyl)-)
- 2-Methylaziridine (1,2-Propylenimine)
- 3-Methylcholanthrene (Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-)
- Methyl chlorocarbonate (Carbonochloridic acid, methyl ester)
- 4,4'-Methylenebis(2-chloroaniline) (Benzenamine, 4,4'-methylenebis-(2-chloro-)
- Methyl ethyl ketone (MEK) (2-Butanone)
- Methyl hydrazine (Hydrazine, methyl-)
- 2-Methylactonitrile (Propanenitrile, 2-hydroxy-2-methyl-)
- Methyl methacrylate (2-Propenoic acid, 2-methyl-, methyl ester)
- Methyl methanesulfonate (Methanesulfonic acid, methyl ester)
- 2-Methyl-2-(methylthio)propionaldehyde-o-(methylcarbonyl) oxime
- N-Methyl-N'-nitro-N-nitrosoguanidine (Guanidine, N-nitros-N-methyl-N'nitro-)
- Methyl parathion (O,O-dimethyl O-(4-nitrophenyl) phosphorothioate)
- Methylthiouracil (4-1H-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-)
- Metolcarb (Carbamic acid, methyl-, 3-methylphenyl ester)
- Mexacarbate (Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester))
- Molinate (1H-Azepine-1-carbothioic acid,hexahydro-, S-ethyl ester)
- Mustard gas (Sulfide, bis(2-chloroethyl)-)
- Naphthalene
- 1,4-Naphthoquinone (1,4-Naphthalenedione)
- 1-Naphthylamine (alpha-Naphthylamine)
- 2-Naphthylamine (beta-Naphthylamine)
- 1-Naphthyl-2-thiourea (Thiourea, 1-naphthalenyl-)
- Nickel and compounds, N.O.S.*
- Nickel carbonyl (Nickel tetracarbonyl)
- Nickel cyanide (nickel (II) cyanide)
- Nicotine and salts, Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts)
- Nitric oxide (Nitrogen (II) oxide)
- p-Nitroaniline (Benzenamine, 4-nitro-)
- Nitrobenzene (Benzene, nitro-) Nitrobenzene
- Nitrogen dioxide (Nitrogen (IV) oxide)
- Nitrogen mustard and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, and hydrochloride salt)
- Nitrogen mustard N-Oxide and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, N-oxide, and hydro-chloride salt)
- Nitroglycerine (1,2,3-Propanetriol, trinitrate)
- 4-Nitrophenol (Phenol, 4-nitro-)
- 2-Nitropropane (Propane 2-nitro)
- 4-Nitroquinoline-1-oxide (Quinoline, 4-nitro-1-oxide-)
- Nitrosamine, N.O.S.*
- N-Nitrosodi-n-butylamine (1-Butanamine, N-butyl-N-nitroso-)
- N-Nitrosodiethanolamine (Ethanol, 2,2'-(nitrosoimino)bis-)
- N-Nitrosodiethylamine (Ethanamine, N-Ethyl-N-nitroso-)
- N-Nitrosodimethylamine (Dimethylnitrosamine)
- N-Nitroso-N-ethylurea (Carbamide, N-ethyl-N-nitroso-)
- N-Nitrosomethylethylamine (Ethanamine, N-methyl-N-nitroso-)
- N-Nitroso-N-methylurea (Carbamide, N-methyl-N-nitroso-)

- N-Nitroso-N-methylurethane (Carbamic acid, methylnitroso-, ethyl ester)
- N-Nitrosomethylvinylamine (Ethenamine, N-methyl-N-nitroso-)
- N-Nitrosomorpholine (Morpholine, N-nitroso-)
- N-Nitrosornicotine (Norricotine, N-nitroso-)
- N-Nitrosopiperidine (Pyridine, hexahydro-, N-nitroso-)
- N-Nitrosopyrrolidine (pyrrole, tetrahydro-, N-nitroso-)
- N-Nitrososacrosine (Sarcosine, N-nitroso-)
- 5-Nitro-o-toluidine (Benzenamine, 2-methyl-5-nitro-)
- Octachlorodibenzo-p-dioxin (OCDD) 1,2,3,4,6,7,8,9-
- Octachlorodibenzo-p-dioxin
- Octachlorodibenzofuran (OCDF) 1,2,3,4,6,7,8,9-
- Octachlorodibenzofuran
- Octamethylpyrophosphoramidate (Diphosphoramidate, octamethyl-)
- Osmium tetroxide (Osmium (VIII) oxide)
- 7-Ocabcyclo[2.2.1]heptane-2,3-dicarboxylic acid (Endothal)
- Oxamyl (Ethanimidothioic acid, 2-(dimethylamino)-N-[(methylamino) carbonyl]oxy]-2-oxo-, methyl ester)
- Paraldehyde (1,3,5-Trioxane, 2,4,6-trinethyl-)
- Parathion (Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl) ester)
- Pebulate (Carbamothioic acid, butylethyl-, S- propyl ester)
- Pentachlorobenzene (Benzene, pentachloro-)
- Pentachlorodibenzo-p-dioxins
- Pentachlorodibenzofurans
- Pentachloroethane (Ethane, pentachloro-)
- Pentachloronitrobenzene (PCNB) (Benzene, pentachloronitro-)
- Pentachlorophenol (Phenol, pentachloro-)
- Perchloromethyl mercaptan (Methanesulferyll chloride, trichloro-)
- Phenacetin (Acetamide, N-(4-ethoxyphenyl)-)
- Phenol (Benzene, hydroxy-)
- Phenylenediamine (Benzenediamine)
- Phenylmercury acetate (Mercury, acetatophenyl-)
- N-Phenylthiourea (Thiourea, phenyl-)
- Phosgene (Carbonyl chloride)
- Phosphine (Hydrogen phosphide)
- Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester (Phorate)
- Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)sulfonyl)phenyl] ester (Famphur)
- Phthalic acid esters, N.O.S.* (Benzene, 1,2-dicarboxylic acid, esters, N.O.S.*
- Phthalic anhydride (1,2-Benzenedicarboxylic acid anhydride)
- Physostigmine (Pyrrolo[2,3-b]indol-5-01, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-)
- Physostigmine salicylate (Benzoic acid, 2-hydroxy-, compd. with (3aS-cis) —1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo [2,3-b]indol-5-yl methylcarbamate ester (1:1).)
- 2-Picoline (Pyridine, 2-methyl-)
- Polychlorinated biphenyl, N.O.S.*
- Potassium cyanide
- Potassium dimethyldithiocarbamate (Carbamodithioic acid, dimethyl, potassium salt)
- Potassium n-hydroxymethyl-n-methyl- dithiocarbamate (Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt)
- Potassium n-methyldithiocarbamate (Carbamodithioic acid, methyl- monopotassium salt)
- Potassium pentachlorophenate (Pentachlorophenol, potassium salt)
- Potassium silver cyanide (Argentate(1-), dicyano-, potassium)
- Promecarb (Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate)
- Pronamide (3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide)
- 1,3-Propanesultone (1,2-Oxathiolane, 2,2-dioxide)
- Propham (Carbamic acid, phenyl-, 1-methylethyl ester)
- Propionic acid, 2-(2,4,5-trichlorophenoxy), salts and esters (2,4,5-TP,Silvex, salts and esters)
- Propoxur (Phenol, 2-(1-methylethoxy)-, methylcarbamate)
- n-Propylamine (1-Propane)
- Propylthiouracil (2,3 dihydro-6-propyl-2 thioxo-4(1H)-pyrimidinone)
- 2-Propyn-1-ol (Propargyl alcohol)
- Prosulfocarb (Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester)
- Pyridine
- Reserpine (Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester)
- Resorcinol (1,3-Benzenediol)
- Saccharin and salts (1,2-Benzisothiazolin-3-one, 1,1-dioxide, and salts)
- Safrol (Benzene, 1,2-methylenedioxy-4-allyl-)
- Selenious acid (Selenium dioxide)
- Selenium and compounds, N.O.S.*
- Selenium sulfide (Sulfur selenide)
- Selenium, tetrakis (dimethyl-dithiocarbamate) (Carbamodithioic acid, dimethyl-, tetraanhydrosulfide with orthothioselenious acid)
- Selenourea (Carbamimidoseleonic acid)
- Silver and compounds, N.O.S.*
- Silver cyanide
- Sodium cyanide
- Sodium dibutyldithiocarbamate (Carbamodithioic acid, dibutyl, sodium salt)
- Sodium diethyldithiocarbamate (Carbamodithioic acid, diethyl-, sodium salt)
- Sodium dimethyldithiocarbamate (Carbamodithioic acid, dimethyl-, sodium salt)
- Sodium pentachlorophenate (Pentachlorophenol, sodium salt)
- Streptozotocin (D-Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-)
- Strychnine and salts (Strychnidin-10-one, and salts)
- Sulfallate (Carbamodithioic acid, diethyl-, 2-chloro-2-propenyl ester)

- Tetrabutylthiuram disulfide (Thioperoxydicarbonic diamide, tetrabutyl)
- 1,2,4,5-Tetrachlorobenzene (Benzene, 1,2,4,5-tetrachloro-)
- Tetrachlorodibenzo-p-dioxins
- Tetrachlorodibenzofurans
- 2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD) (Dibenzo-p-dioxin, 2,3,7,8-tetrachloro-)
- Tetrachloroethane, N.O.S.* (Ethane, tetrachloro-, N.O.S.*)
- 1,1,1,2-Tetrachlorethane (Ethane, 1,1,1,2-tetrachloro-)
- 1,1,2,2-Tetrachlorethane (Ethane, 1,1,2,2-tetrachloro-)
- Tetrachlorethylene (Ethene, 1,1,2,2-tetrachloro-)¹
- Tetrachloromethane (Carbon tetrachloride)
- 2,3,4,6-Tetrachlorophenol (Phenol, 2,3,4,6-tetrachloro-)
- 2,3,4,6-Tetrachlorophenol, potassium salt
- 2,3,4,6-Tetrachlorophenol, sodium salt
- Tetraethyldithiopyrophosphate (Dithiopyrophosphoric acid, tetraethyl-ester)
- Tetraethyl lead (Plumbane, tetraethyl-)
- Tetraethylpyrophosphate (Pyrophosphoric acid, tetraethyl ester)
- Tetramethylthiuram monosulfide (Bis(dimethylthiocarbamoyl) sulfide)
- Tetranitromethane (Methane, tetranitro-)
- Thallium and compounds, N.O.S.*
- Thallic oxide (Thallium (III) oxide)
- Thallium (I) acetate (Acetic acid, thallium (I) salt)
- Thallium (I) carbonate (Carbonic acid, dithallium (I) salt)
- Thallium (I) chloride
- Thallium (I) nitrate (Nitric acid, thallium (I) salt)
- Thallium selenite
- Thallium (I) sulfate (Sulfuric acid, thallium (I) salt)
- Thioacetamide (Ethanethioamide)
- Thiodicarb (Ethanimidothioic acid, N,N'-[thiobis [(methylimino) carbonyloxy]] bis-, dimethyl ester.)
- Thiophanate-methyl (Carbamic acid, [1,2-phenylenebis (iminocarbonothioyl)] bis-, dimethyl ester)
- Thiosemicarbazide (Hydrazinecarbothioamide)
- Thiourea (Carbamide thio-)
- Thiuram (Bis(dimethylthiocarbamoyl) disulfide)
- Tirpate (1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino) carbonyl] oxime.)
- Toluene (Benzene, methyl-)
- Toluenediamine, N.O.S. (Toluene, 2,5-diamine-)
- 2,4-Toluenediamine
- 2,6-Toluenediamine
- 3,4-Toluenediamine
- o-Toluidine hydrochloride (Benzenamine, 2-methyl-, hydrochloride)
- Tolylene diisocyanate (Benzene, 2,4- and 2,6-diisocyanato-methyl-)
- Toxaphene (Camphene, octachloro-)
- Triallate (Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester)
- Tribromomethane (Bromoform)
- 1,2,4-Trichlorobenzene (Benzene, 1,2,4-trichloro-)
- 1,1,1-Trichloroethane (Methyl chloroform)
- 1,1,2-Trichloroethane (Ethane, 1,1,2-trichloro-)
- Trichloroethene (Trichloroethylene)
- Trichloromonofluoromethane (Methane, trichlorofluoro-)
- 2,4,5-Trichlorophenol (Phenol, 2,4,5-trichloro-)
- 2,4,6-Trichlorophenol (Phenol, 2,4,6-trichloro-)
- 2,4,5-Trichlorophenoxyacetic acid (2,4,5-T, salts and esters) (Acetic acid, 2,4,5-trichlorophenoxy-, salts and esters)
- 2,4,5-Trichlorophenoxypropionic acid (Propionic acid, 2-(2,4,5-trichlorophenoxy), salts and esters (2,4,5-TP, Silvex, salts and esters))
- Trichloropropane, N.O.S.* (Propane, trichloro-, N.O.S.*)
- 1,2,3-Trichloropropane (Propane, 1,2,3-trichloro-)
- O,O,O-Triethyl phosphorothioate (Phosphorothioic acid, O,O,O-triethyl ester)
- Triethylamine (Ethanamine, N,N-diethyl-)
- sym-Trinitrobenzene (Benzene, 1,3,5-trinitro-)
- Tris(1-aziridinyl) phosphine sulfide (Phosphine sulfide, tris(1-aziridinyl-))
- Tris(2,3-dibromopropyl) phosphate (1-Propanol, 2,3-dibromo-, phosphate)
- Trypan blue (2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl(1,1'-biphenyl)-4,4'-diyl)bis(azo)]bis(5-amino-4-hydroxy-, tetrasodium salt)
- Undecamethylenediamine, N,N'-bis(2-chloro-benzyl)-, dihydrochloride N,N'-Undecamethyl-enebis(2-chlorobenzylamine, dihydrochloride)
- Uracil mustard (Uracil 5-[bis(2-chlorethyl)amino]-)
- Vanadic acid, ammonium salt (ammonium vanadate)
- Vanadium pentoxide (Vanadium (V) oxide)
- Vernolate (Carbamothioic acid, dipropyl-, S-propyl ester)
- Vinyl chloride (Ethane, chloro-)
- Warfarin (2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, when present at concentrations less than 0.3%)
- Warfarin (2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, when present at concentrations greater than 0.3%)
- Warfarin salts, when present at concentrations less than 0.3%
- Warfarin salts, when present at concentrations greater than 0.3%
- Zinc cyanide
- Zinc phosphide
- Ziram (Zinc, bis(dimethylcarbomodithioato-S,S')-, (T-4)-)

* The abbreviation N.O.S. signifies those members of the general class "not otherwise specified" by name in this listing.

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.

PROPOSED

WSR 04-14-096**WITHDRAWAL OF PROPOSED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed July 6, 2004, 4:15 p.m.]

The Aging and Disability Services Administration would like to withdraw the following CR-102 Proposed Rule Making: WSR 04-11-086.

Brian Lindgren, Manager
Rules and Policies Assistant Unit

WSR 04-14-099**PROPOSED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed July 6, 2004, 4:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-09-089 and 04-01-087.

Title of Rule and Other Identifying Information: Chapter 388-72A WAC, Comprehensive assessment reporting and evaluation (CARE) tool.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA, on September 7, 2004, at 10:00 a.m.

Date of Intended Adoption: Not earlier than September 8, 2004.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., September 7, 2004.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by September 3, 2004, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amending and adding new sections to chapter 388-72A WAC, Comprehensive assessment and reporting evaluation (CARE) tool, to update program rules, update references, incorporate the CARE algorithm in rule, and incorporate CARE assessment criteria for children receiving state plan Medicaid personal care (MPC) services.

The CR-102 filed as WSR 04-11-086 has been withdrawn, and language from that proposed rule pertaining to children receiving state plan MPC (Medicaid personal care) services has been incorporated in these proposed rules.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 74.39A.095.

Statute Being Implemented: RCW 74.08.090, 74.09.520, 74.39A.090, 74.39A.095.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Brooke Buckingham, P.O. Box 45600, Olympia, WA 98504-5600, (425) 670-6485.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the rules and determined that no new costs will be imposed on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is exempt by RCW 34.05.328 (5)(b)(vii), rules relating to client medical eligibility. The CARE tool and algorithm in the proposed rule are used to determine clients' eligibility for medical long-term care services in home and community-based settings.

July 1, 2004

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 04-16 issue of the Register.

WSR 04-14-101**PROPOSED RULES****HORSE RACING COMMISSION**

[Filed July 6, 2004, 4:29 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-21-079.

Title of Rule and Other Identifying Information: WAC 260-24-510 Stewards.

Hearing Location(s): Auburn City Council Chambers, 25 West Main Street, Auburn, WA, on August 12, 2004, at 10:00 a.m.

Date of Intended Adoption: August 12, 2004.

Submit Written Comments to: Robert M. Leichner, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, fax (360) 459-6461, by August 12, 2004.

Assistance for Persons with Disabilities: Contact Patty Sorby by August 11, 2004.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To clarify and provide for a process to be used by the stewards in making initial agency determinations of violations of agency rules and to provide standard guidelines for standard violations.

Summary: To amend the current rule to make the steward responsible to the executive secretary for the conduct of each race meet, establishes that the stewards will make the initial agency determination of alleged rule violations, replaces the stewards hearing with a stewards ruling conference, adds a penalty matrix outlining standard penalties for common rule violations, including first, second and third violations within a calendar year, outlines the authority of the stewards and includes a process to appeal the actions of the board of stewards.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 260-24-510 Stewards, addresses the authority of the stewards and their responsibilities regarding the conduct of a race meet, the section is being amended to replace the

stewards hearing process with the stewards ruling conference as part of the agency initial determination of alleged rule violations. The amendment also establishes standard penalties for common rule violations within a calendar year. If adopted this rule will simplify the agency's initial determination and provide easier access to appeal stewards' decisions and provide the licensees some expectation of the penalty if the alleged rule violation they are accused of is sustained.

Proposal Changes the Following Existing Rules: Makes the stewards responsible to the executive secretary for the conduct of a race meet, and to make the initial agency's determination of alleged rule violations. Outlines the authority of the board of stewards. Replaces the current stewards hearing process with the stewards ruling conference. Places into rule a penalty matrix for common rule violations. Establishes a process to appeal the findings and penalties of the stewards.

Reasons Supporting Proposal: With passage of SHB 2575 in the fifty-eighth legislative session, stewards are now granted authority to reprimand, fine, suspend, revoke or any combination persons violating the rules of racing. The legislation also requires the agency to establish in rule a standard penalty matrix.

Statutory Authority for Adoption: RCW 67.16.020.

Statute Being Implemented: SHB 2575.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Implements portions of SHB 2575.

Name of Proponent: Washington Horse Racing Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Robert Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516, (360) 459-6462; **Implementation and Enforcement:** Robert Leichner, 6326 Martin Way, Suite 209, Olympia, WA 98516, (360) 459-6462.

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.

July 6, 2004

R. M. Leichner
Executive Secretary

AMENDATORY SECTION (Amending WSR 03-13-074, filed 6/13/03, effective 7/14/03)

WAC 260-24-510 Stewards. (1) General authority:

(a) The stewards for each meeting shall be responsible to the ~~((commission))~~ executive secretary for the conduct of the race meeting and the initial agency determination of alleged rule violations in accordance with these rules;

(b) The stewards shall enforce ~~((these rules and the racing laws of this jurisdiction))~~ the rules of racing in chapters 260-12 through 260-84 WAC;

(c) The stewards' authority includes ~~((supervision))~~ regulation of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing, and patrons, as necessary to insure compliance with these rules;

(d) All nominations, entries, declarations and scratches shall be conducted under the supervision of the stewards;

(e) The stewards shall have authority to resolve conflicts or disputes related to violations of the rules of racing and to discipline violators in accordance with the provisions of these rules;

(f) The stewards shall take notice of any questionable conduct with or without complaint thereof;

(g) The stewards have the authority to interpret the rules and to decide all questions of racing not specifically covered by the rules;

(h) Should any case occur which may not be covered by these rules of racing, it shall be determined by the stewards of the race meeting in conformity with justice and in the best interest of racing; and the stewards of the meeting are hereby given authority to exercise their full power, recommending to the commission the impositions of more severe penalties, if in their judgment the penalty should be more drastic.

(2) The stewards' period of authority shall commence 10 days prior to the beginning of each race meet, or at such other time as is necessary in the opinion of the executive secretary, ~~((of each meeting))~~ and shall terminate with the completion of their business pertaining to the meeting. One of the three stewards shall be designated as the presiding steward by the commission.

~~(3) ((Disciplinary action:~~

~~(a) The stewards shall take notice of alleged misconduct or rule violations and initiate investigations into such matters;~~

~~(b) The stewards shall have authority to charge any licensee with a violation of these rules, to conduct hearings and to impose disciplinary action in accordance with these rules;~~

~~(c) The stewards may compel the attendance of witnesses and the submission of documents or potential evidence related to any investigation or hearing;~~

~~(d) The stewards may at any time inspect license documents, registration papers and other documents related to racing;~~

~~(e) The stewards shall have the power to administer oaths and examine witnesses;~~

~~(f) The stewards shall consult with the official veterinarian to determine the nature and seriousness of a laboratory finding or an alleged medication violation;~~

~~(g) The stewards may impose any of the following penalties on a licensee for a violation of these rules;~~

~~(i) Issue a reprimand;~~

~~(ii) Assess a fine;~~

~~(iii) Require forfeiture or redistribution of purse or award, when specified by applicable rules;~~

~~(iv) Place a licensee on probation;~~

~~(v) Suspend a license or racing privileges;~~

~~(vi) Revoke a license; or~~

~~(vii) Exclude from grounds under the jurisdiction of the commission.~~

~~(h) The stewards may suspend a license for not more than one year per violation; or they may impose a fine not to exceed \$2,500 per violation; or they may suspend and fine; or they may order that a person be ineligible for licensing. For violations covered by Chapter 260-70 [WAC] Medication, the stewards shall follow the penalty guidelines as set forth in WAC 260-70-690;~~

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PROPOSED

(i) ~~A stewards' ruling shall not prevent the commission from imposing a more severe penalty;~~

(j) ~~The stewards may refer any matter to the commission and may include recommendations for disposition. The absence of a stewards' referral shall not preclude commission action in any matter;~~

(k) ~~Purses, prizes, awards and trophies shall be redistributed if the stewards or commission order a change in the official order of finish;~~

(l) ~~All fines imposed by the stewards shall be paid to the commission within 48 hours after the ruling is issued, unless otherwise ordered.) Stewards ruling conference regarding violations of rules of racing:~~

(a) The stewards shall take notice of alleged misconduct or rule violations and initiate investigations into such matters.

(b) The stewards shall have authority to charge any licensee with a violation of these rules, to make rulings and to impose penalties including the following:

(i) Issue a reprimand;

(ii) Assess a fine not to exceed \$2,500.00, except as provided in WAC 260-70-690;

(iii) Require forfeiture or redistribution of purse or award, when specified by applicable rules;

(iv) Place a licensee on probation;

(v) Suspend a license or racing privileges for not more than one year per violation;

(vi) Revoke a license; or

(vii) Exclude from grounds under the jurisdiction of the commission.

(c) Except as provided in (d) of this subsection, the stewards' imposition of reprimands, fines and suspensions shall be based on the following penalty matrixes:

Class A & B Licensed Facilities			
<u>Violations within calendar year</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
<u>Smoking in restricted areas WAC 260-20-030</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Tampering with a fire protection, prevention or suppression system or device WAC 260-20-030</u>	<u>\$50</u>	<u>\$100</u>	<u>\$250 plus possible suspension</u>
<u>Disturbing the peace WAC 260-80-140</u>	<u>Warning - \$200 and/or suspension</u>	<u>Warning - \$500 and/or suspension</u>	<u>Suspension</u>
<u>Person performing duties for which they are not licensed WAC 260-36-010</u>	<u>\$50</u>	<u>\$100</u>	<u>\$150</u>
<u>Unlicensed or improperly licensed personnel (trainer's responsibility) WAC 260-28-230</u>	<u>\$500</u>		
<u>Licensing - failure to divulge a felony WAC 260-36-120</u>	<u>\$100 or possible denial of license</u>		
<u>Licensing - failure to divulge a gross misdemeanor or misdemeanor WAC 260-36-120</u>	<u>Warning - \$50</u>		
<u>Licensing - providing false information on application WAC 260-36-120</u>	<u>\$50 - \$250 or possible denial of license</u>		
<u>Licensing - nonparticipation WAC 260-36-080</u>	<u>License canceled</u>		
<u>Violation of any claiming rule in chapter 260-60 WAC</u>	<u>\$200 - \$500 plus possible suspension</u>		
<u>Use of improper, profane or indecent language to a racing official WAC 260-80-130</u>	<u>\$50</u>	<u>\$100</u>	<u>\$250</u>
<u>Unsafe vehicle operation WAC 260-20-020</u>	<u>Warning - \$50</u>	<u>\$100 and recommend racing association revoke vehicle pass</u>	
<u>Financial responsibility WAC 260-28-030</u>	<u>Resolve 30 days or before the end of the meet (whichever is sooner) to resolve or suspension</u>		
<u>Failure to appear - hearing WAC 260-24-510</u>	<u>Suspension pending appearance</u>		
<u>Failure to honor riding engagements (call) - agents WAC 260-32-400</u>	<u>\$75</u>	<u>\$100</u>	<u>\$200</u>

Class A & B Licensed Facilities			
<u>Violations within calendar year</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
<u>Reporting incorrect weight - jockeys WAC 260-32-150</u>	<u>\$50</u>	<u>\$100</u>	<u>\$200</u>
<u>Failure to appear for films - jockeys WAC 260-24-510</u>	<u>\$50</u>	<u>\$100</u>	<u>\$200</u>
<u>Failure to fulfill riding engagement WAC 260-32-080</u>	<u>\$100</u>	<u>\$150</u>	<u>\$200</u>
<u>Easing mount without cause WAC 260-52-040</u>	<u>\$250</u>	<u>\$250 and/or suspension</u>	<u>\$500 and/or suspension</u>
<u>Jockey failing to maintain straight course or careless riding WAC 260-52-040</u>	<u>Warning - \$750 and/or suspension (riding days)</u>		
<u>Jockey's misuse of whip WAC 260-52-040</u>	<u>Warning - \$2500</u>		
<u>Use of stimulating device (may include batteries) WAC 260-52-040</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Possession of stimulating device (may include batteries) WAC 260-52-040, WAC 260-80-100</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Attempting to manipulate the outcome of a race WAC 260-80-025</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Offering or accepting a bribe in an attempt to influence the outcome of a race WAC 260-80-010 and 260-80-020</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Entering ineligible horse WAC 260-80-030</u>	<u>\$50</u>	<u>\$100</u>	<u>\$100</u>
<u>Arriving late to the paddock WAC 260-28-200</u>	<u>Warning - \$50</u>	<u>Warning - \$50</u>	<u>\$50 - \$100</u>
<u>Failure to have registration papers on file - resulting in a scratch WAC 260-40-090</u>	<u>\$50 - \$100</u>	<u>\$100</u>	<u>\$100</u>
<u>Failure to handle business properly - late equipment change, etc. WAC 260-44-010</u>	<u>Warning - \$50</u>	<u>\$100</u>	<u>\$100</u>
<u>Insufficient workouts - resulting in scratch WAC 260-40-100</u>	<u>\$50 - \$100</u>	<u>\$100</u>	<u>\$100</u>

Class C Licensed Facilities			
<u>Violation within calendar year</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
<u>Smoking in restricted areas WAC 260-20-030</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Tampering with a fire protection, prevention or suppression system or device WAC 260-20-030</u>	<u>\$50</u>	<u>\$100</u>	<u>\$250 plus possible suspension</u>
<u>Disturbing the peace WAC 260-80-140</u>	<u>Warning - \$100 and/or suspension</u>	<u>\$250 and/or suspension</u>	<u>Suspension</u>
<u>Person performing duties for which they are not licensed WAC 260-36-010</u>	<u>\$50</u>	<u>\$100</u>	<u>\$150</u>
<u>Unlicensed or improperly licensed personnel (trainer's responsibility) WAC 260-28-230</u>	<u>\$100</u>		
<u>Licensing - failure to divulge a felony WAC 260-36-120</u>	<u>\$100 or possible denial of license</u>		

PROPOSED

Class C Licensed Facilities			
<u>Violation within calendar year</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
<u>Licensing failure to divulge a misdemeanor or gross misdemeanor WAC 260-36-120</u>	<u>Warning - \$25</u>		
<u>Licensing - providing false information on application WAC 260-36-120</u>	<u>\$50 - \$250 or possible denial of license</u>		
<u>Licensing - nonparticipation WAC 260-36-080</u>	<u>License canceled</u>		
<u>Violation of any claiming rule in chapter 260-60 WAC</u>	<u>\$100 - \$250 plus possible suspension</u>		
<u>Use of improper, profane or indecent language to a racing official WAC 260-80-130</u>	<u>\$50</u>	<u>\$100</u>	<u>\$250</u>
<u>Unsafe vehicle operation WAC 260-20-020</u>	<u>Warning - \$50</u>		
<u>Financial responsibility WAC 260-28-030</u>	<u>Resolve 30 days or before the end of the fall meet (whichever is sooner) to resolve or suspension</u>		
<u>Failure to appear - hearing WAC 260-24-510</u>	<u>Suspension pending appearance</u>		
<u>Failure to honor riding engagements (call) - agents WAC 260-32-400</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Reporting incorrect weight - jockeys WAC 260-32-150</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Failure to appear for films - jockeys WAC 260-24-510</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Failure to fulfill riding engagement WAC 260-32-080</u>	<u>\$50</u>	<u>\$100</u>	<u>\$200</u>
<u>Easing mount without cause WAC 260-52-040</u>	<u>\$100</u>	<u>\$200 and/or suspension</u>	<u>\$400 and/or suspension</u>
<u>Jockey failing to maintain straight course or careless riding WAC 260-52-040</u>	<u>Warning - \$750 and/or suspension (riding days)</u>		
<u>Jockey's misuse of whip WAC 260-52-040</u>	<u>Warning - \$2500</u>		
<u>Use of stimulating device (may include batteries) WAC 260-52-040</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Possession of stimulating device (may include batteries) WAC 260-52-040, WAC 260-80-100</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Attempting to manipulate outcome of a race WAC 260-80-025</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Offering or accepting a bribe in an attempt to influence the outcome of a race WAC 260-80-010 and 260-80-020</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Entering ineligible horse WAC 260-80-030</u>	<u>\$25</u>	<u>\$50</u>	<u>\$50</u>
<u>Arriving late to the paddock WAC 260-28-200</u>	<u>Warning - \$25</u>	<u>\$50</u>	<u>\$50</u>
<u>Failure to have registration papers on file - resulting in a scratch WAC 260-40-090</u>	<u>\$50</u>	<u>\$100</u>	<u>\$100</u>
<u>Failure to handle business properly - late equipment change, etc. WAC 260-44-010</u>	<u>Warning - \$50</u>	<u>\$50</u>	<u>\$50</u>

PROPOSED

Class A, B & C Licensed Facilities			
<u>Violation within calendar year</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
<u>Failure to pay or default on L&I payment WAC 260-28-220</u>	<u>Suspension until paid plus \$25 for each quarter payment is late</u>		
<u>Failure to maintain employee L&I records for grooms and assistant trainers (trainer's responsibility) WAC 260-28-230</u>	<u>Warning - \$50</u>		
<u>Unlicensed person on the backside WAC 260-20-040</u>	<u>Report violation to the racing association</u>		

For any other violation not specifically listed above, the stewards shall have discretion to impose the penalties as provided in (b) of this subsection. For violations considered minor, the fine can be up to \$500 and/or suspension for up to sixty days. Fines for violations considered major can be up to \$2,500 and/or suspension up to one year.

(d) Circumstances which may be considered for the purpose of mitigation or aggravation of any penalty shall include, but are not limited to, the following:

(i) The impact of the offense on the integrity of the parimutuel industry;

(ii) The danger to human and/or equine safety;

(iii) The number of prior violations of the rules of racing or violations of racing rules in other jurisdictions; and/or

(iv) The deterrent effect of the penalty imposed.

(e) For violations covered by chapter 260-70 WAC, Medication, the stewards shall follow the penalty guidelines as set forth in WAC 260-70-690.

(f) The stewards may place a jockey on a film list whenever a jockey is involved in questionable, unsafe or potentially dangerous riding. Jockeys referred to the film analyst or stewards shall appear when directed. Failure to appear when directed shall be considered a violation of the rules of racing for which penalties may be imposed.

(g) The stewards may refer any matter to the commission and may include recommendations for disposition. The absence of a stewards' referral shall not preclude commission action in any matter. A stewards' ruling shall not prevent the commission from imposing a more severe penalty.

(h) The stewards shall have the authority to conduct a ruling conference, and the authority to:

(i) Direct the attendance of witnesses and commission employees;

(ii) Direct the submission of documents, reports or other potential evidence;

(iii) Inspect license documents, registration papers and other documents related to racing or the rule violation;

(iv) Question witnesses; and

(v) Consider all relevant evidence.

(i) The stewards shall serve notice of a conference to person(s) alleged to have committed a violation, which shall contain the following information:

(i) A statement of the time and place the conference will be held;

(ii) A reference to the particular sections of the WAC involved;

(iii) A short and plain statement of the alleged violation; and

(iv) A statement that if the person does not appear, the ruling will be made in his/her absence, and that failure to appear will be considered a separate violation of the rules of racing.

(j) Failure to appear for a ruling conference shall be considered a violation of the rules of racing for which penalties may be imposed.

(k) It is the duty and obligation of every licensee to make full disclosure to the board of stewards of any knowledge he/she possesses of a violation of any rule of racing. No person may refuse to respond to questions before the stewards on any relevant matter within the authority of the stewards, except in the proper exercise of a legal privilege, nor shall any person respond falsely before the stewards.

(l) At the ruling conference, the stewards shall allow the licensee to make a statement regarding the alleged violation.

(m) Every ruling by the stewards must be served in writing on the person(s) found in violation within five days and shall include:

(i) Time and place the ruling was made;

(ii) Statement of rules violated;

(iii) Details of the violation;

(iv) Penalties to be imposed;

(v) Procedure for requesting a hearing before the commission to challenge the ruling; and

(vi) Plain statement of licensee's options, which shall include:

(A) Accepting the penalty imposed by the stewards; or

(B) Requesting a hearing before the commission challenging the stewards' determination within seven days.

(n) The stewards' ruling shall be posted and a copy provided to the racing association.

(o) If a person does not file a request for hearing before the commission within seven days or in the format required by chapter 260-88 WAC, then the person is deemed to have waived his or her right to a hearing before the commission. After seven days, if a request for hearing before the commission has not been filed, the stewards' penalty shall be imposed.

(p) "Service" of the notice of ruling conference or a stewards' ruling shall be by either personal service on the licensee or by depositing the notice of ruling conference or stewards' ruling into the mail to the licensee's last known address in which case service is complete upon deposit in the U.S. mail.

(q) If the stewards determine that a licensee's actions constitute an immediate, substantial danger to human and/or equine health, safety, or welfare, the stewards may enter a ruling summarily suspending the license pending a ruling conference before the board of stewards. A summary suspen-

sion takes effect immediately on issuance of the ruling. If the stewards suspend a license under this subsection, the licensee is entitled to a ruling conference before the board of stewards, not later than five days after the license was summarily suspended. The licensee may waive his/her right to a ruling conference before the board of stewards on the summary suspension.

(4) Protests, objections and complaints. The stewards shall cause an investigation to be conducted and shall render a decision in every protest, objection and complaint made to them. They shall maintain a record of all protests, objections and complaints. The stewards shall file daily with the commission a copy of each protest, objection or complaint and any related ruling. The stewards are vested with the power to determine the extent of disqualification in case of fouls. They may place the offending horse behind such horses as in their judgment it interfered with, or they may place it last.

(5) Stewards' presence:

(a) On each racing day at least one steward shall be on duty at the track ~~((from 3))~~ beginning three hours prior to first race post time. The full board of stewards shall sit in regular session to exercise their authority and perform the duties imposed on them by the rules of racing;

(b) Three stewards shall be present in the stewards' stand during the running of each race. In case of emergency, the stewards may, during the ~~((meeting))~~ meet, appoint a substitute subject to the confirmation of the commission.

(6) Order of finish for parimutuel wagering:

(a) The stewards shall determine the official order of finish for each race in accordance with these rules of racing;

(b) The decision of the stewards as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the running of the race, shall be final for purposes of distribution of the parimutuel wagering pool.

(7) The stewards have the authority to cancel wagering on an individual betting interest or on an entire race and also have the authority to cancel a parimutuel pool for a race or races, if such action is necessary to protect the integrity of parimutuel wagering.

(8) Records and reports:

(a) The stewards shall prepare a daily report, detailing their actions and observations made during each day's race program. The report shall contain the name of the racetrack, the date, the weather and track conditions, claims, inquiries, objections and hearings and any unusual circumstances or conditions. The report shall be signed by each steward and be filed with the commission;

(b) Not later than seven days after the last day of a race meeting, the presiding steward shall submit to the commission a written report regarding the race meeting. The report shall contain:

(i) The stewards' observations and comments regarding the conduct of the race meeting, the overall conditions of the association grounds during the race meeting; and

(ii) Any recommendations for improvement by the association or action by the commission.

(9) Stewards' list:

(a) The stewards shall maintain a stewards' list of the horses which are ineligible to be entered in a race because of

poor or inconsistent performance or behavior on the racetrack that may endanger the health or safety of other participants in racing;

(b) The stewards may place a horse on the stewards' list when there exists a question as to the exact identification or ownership of said horse;

(c) A horse which has been placed on the stewards' list because of inconsistent performance or behavior, may be removed from the stewards' list when, in the opinion of the stewards, the horse can satisfactorily perform competitively in a race without endangering the health or safety of other participants in racing;

(d) A horse which has been placed on the stewards' list because of questions as to the exact identification or ownership of said horse, may be removed from the stewards' list when, in the opinion of the stewards, proof of exact identification and/or ownership has been established.

~~(((10) When the stewards feel that a rule, other than a rule of the race, has been violated by any person, the procedure shall be as follows:~~

~~(a) He or she shall be summoned to a hearing before the stewards, called for that purpose;~~

~~(b) Adequate notice of said hearing shall be given to the summoned party. The stewards' decision as to what is adequate notice shall be final;~~

~~(c) No penalty shall be imposed until such hearing;~~

~~(d) Nonappearance of the summoned party after adequate notice shall be construed as a waiver of right to hearing before the stewards;~~

~~(e) No special announcement of the hearing or of the alleged infraction of rules shall be made until after said hearing. Immediately after a hearing, provided the matter is settled, the stewards shall transmit their findings in a stewards ruling to the commission and to the party in question. Thereafter, if a penalty is imposed for the infraction of the rules but only in the case of penalty, the commission may make a public statement.~~

~~(11) Nothing in this rule shall prohibit the stewards from taking necessary action to prevent or avoid the immediate danger to the public health, safety or welfare or the integrity of racing.))~~

WSR 04-14-104

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed July 7, 2004, 10:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-10-111.

Title of Rule and Other Identifying Information: Chapter 16-752 WAC, Noxious weed control, this proposal adds several species, including: *Crassula helmsii*, *Sagittaria platyphylla*, *Trapa bicornus*, *Polygonum cuspidatum*, *Polygonum polystachyum*, *Polygonum sachalinense*, and *Polygonum x bohemicum* to the current quarantine. The proposal also rewrites WAC 16-752-500 to increase its clarity and readability.

Hearing Location(s): Washington State Department of Agriculture, 1111 Washington Street S.E., Natural Resources Building, 2nd Floor, Conference Room 205, Olympia, WA 98504-2560, on August 19, 2004, at 2:00 p.m.

Date of Intended Adoption: September 2, 2004.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, e-mail hgonzales@agr.wa.gov, fax (360) 902-2094, by August 19, 2004.

Assistance for Persons with Disabilities: Contact Henri Gonzales by August 5, 2004, TTY (360) 902-1996.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal adds the following species to the current wetland and aquatic weed quarantine (WAC 16-752-505): *Crassula helmsii* (Australian swamp stonecrop), *Sagittaria platyphylla* (delta arrowhead), and *Trapa bicornis* (water caltrap, devil's pod, bat nut). In addition, this proposal adds the following species to the current noxious weed seed and plant quarantine (WAC 16-752-610): *Polygonum cuspidatum* (Japanese knotweed), *Polygonum polystachyum* (Himalayan knotweed), *Polygonum sachalinense* (giant knotweed), and *Polygonum x bohemicum* (Bohemian knotweed, a hybrid of Japanese and giant knotweed). The proposal also rewrites WAC 16-752-500 to increase its clarity and readability. The purpose of enacting these and other quarantines is to prevent the establishment and spread of harmful nonnative species. Once established, they can have a serious impact on Washington's natural resources by displacing native species, altering habitat, reducing recreational use of waterways, and impacting agricultural production.

Reasons Supporting Proposal: The intrusion into this state of nonnative, invasive weed species continues to be a concern. The spread of these weeds presents a risk to the economic well-being of the agricultural, forest, horticultural, and floricultural industries, and the environmental quality and natural resources of the state. Initiating quarantines forbidding entry or distribution of weed species may be critical for their exclusion or control. The Washington Noxious Weed Control Board, as authorized in chapter 17.10 RCW, supports this proposal.

Statutory Authority for Adoption: Chapters 17.10, 17.24 and 34.05 RCW.

Statute Being Implemented: Chapters 17.10 and 17.24 RCW.

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

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

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Tom Wessels, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-1984.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. Analysis of the economic effects of the proposed rule amendments demonstrate that the changes will not be more than a

minor cost on the regulated industry and, therefore, an SBEIS is not required. However, failure to adopt these changes may have a large impact on the regulated industry.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

July 7, 2004

Mary A. Martin Toohey
Assistant Director

AMENDATORY SECTION (Amending WSR 01-01-014, filed 12/6/00, effective 1/6/01)

WAC 16-752-500 Establishing wetland and aquatic weed quarantine. Washington waters and wetlands are threatened by nonnative, aggressive weeds that destroy the commercial, aesthetic, fish and/or wildlife habitat, and recreational value of these areas. (~~(African elodea, Brazilian elodea (or egeria), Eurasian watermilfoil, fanwort, slender-leaved naiad, hydrilla and water chestnut (a different species from the food "water chestnut" commonly sold in grocery stores) are submersed, rooted species that can invade shallow to deep water. Parrotfeather, water primrose, and yellow floating heart are rooted plants that invade shallow water and aquatic margins. European frogbit and swollen bladderwort are freely floating species-))~~ These rooted or freely floating plant species, when established, form dense stands or mats that (~~((will))~~) clog irrigation systems and waterways, displace native species, alter fish and wildlife habitat, and/or seriously impact recreational use of the waterways.

~~((Garden loosestrife, hairy willow herb, grass leaved arrowhead, mud mat, marsh dew flower and flowering rush are rooted plants which invade wetlands, shallow water and aquatic margins. When established, their dense stands displace native vegetation and harm wildlife habitat.~~

~~Salt meadow))~~ Several species of *Spartina*, generally known as cordgrasses, ((common cordgrass, and smooth eordgrass are noxious)) are nonnative, highly aggressive weeds that have invaded salt water estuarine areas on the Washington coast, displacing native species((;)) and threatening bird and mammal habitats and the shellfish industry. ((Dense flowered cordgrass, a closely related species, has potential to duplicate this invasion.))

The director of agriculture, pursuant to the powers provided in chapters 17.10, 15.13 and 17.24 RCW, finds that the regulation and exclusion of these plants and plant parts are necessary to preserve Washington waters and wetlands, both fresh water and estuarine, from new or additional infestation. These requirements and restrictions, contained in WAC 16-752-500 through 16-752-525, are in addition to the requirements contained in WAC 232-12-271, "Criteria for planting aquatic plants and releasing wildlife," administered by the Washington state department of fish and wildlife.

AMENDATORY SECTION (Amending WSR 01-01-014, filed 12/6/00, effective 1/6/01)

WAC 16-752-505 Wetland and aquatic weed quarantine—Regulated articles. All plants and plant parts of the following are regulated articles under this chapter:

Scientific Name	Common Name	Scientific Name	Common Names
<i>Butomus umbelatus</i>	flowering rush	<i>Centaurea biebersteinii</i>	spotted knapweed
<i>Cabomba caroliniana</i>	fanwort	<i>Centaurea macrocephala</i>	bighead knapweed
<u><i>Crassula helmsii</i></u>	<u>Australian swamp stonecrop</u>	<i>Centaurea nigra</i>	black knapweed
<i>Egeria densa</i>	Brazilian elodea	<i>Centaurea nigrescens</i>	Vochin knapweed
<i>Epilobium hirsutum</i>	hairy willow herb	<i>Chaenorrhinum minus</i>	dwarf snapdragon
<i>Glossostigma diandrum</i>	mud mat	<i>Crupina vulgaris</i>	common crupina
<i>Hydrilla verticillata</i>	hydrilla	<i>Cytisus scoparius</i>	Scotch broom
<i>Hydrocharis morsus-ranae</i>	European frog-bit	<i>Daucus carota</i>	wild carrot, Queen Anne's lace
<i>Lagarosiphon major</i>	African elodea	<i>Echium vulgare</i>	blueweed, blue thistle, blue devil, viper's bugloss, snake flower
<i>Ludwigia hexapetala</i>	water primrose	<i>Euphorbia esula</i>	leafy spurge
<i>Lysimachia vulgaris</i>	garden loosestrife	<i>Euphorbia oblongata</i>	eggleaf spurge
<i>Murdannia keisak</i>	marsh dew flower, Asian spiderwort	<i>Galega officinalis</i>	goatsrue
<i>Myriophyllum aquaticum</i>	parrotfeather	<i>Helianthus ciliaris</i>	Texas blueweed
<i>Myriophyllum spicatum</i>	Eurasian watermilfoil	<i>Heracleum mantegazzianum</i>	giant hogweed, giant cow parsnip
<i>Najas minor</i>	slender-leaved naiad, brittle naiad	<i>Hibiscus trionum</i>	Venice mallow, flower-of-an-hour, bladder ketmia, modesty, shoo-fly
<i>Nymphoides peltata</i>	yellow floating heart	<i>Hieracium aurantiacum</i>	orange hawkweed, orange paintbrush, red daisy flameweed, devil's weed, grim-the-collier
<i>Sagittaria graminea</i>	grass-leaved arrowhead	<i>Hieracium caespitosum</i>	yellow hawkweed, yellow paintbrush, devil's paintbrush, yellow devil, field hawkweed, king devil
<u><i>Sagittaria platyphylla</i></u>	<u>delta arrowhead</u>	<i>Hieracium floribundum</i>	yellow devil hawkweed
<i>Spartina alterniflora</i>	smooth cordgrass	<i>Hieracium pilosella</i>	mouseear hawkweed
<i>Spartina anglica</i>	common cordgrass	<i>Impatiens glandulifera</i>	policeman's helmet
<i>Spartina densiflora</i>	dense-flowered cordgrass	<i>Isatis tinctoria</i>	dyers' woad
<i>Spartina patens</i>	salt meadow cordgrass	<i>Kochia scoparia</i>	kochia, summer-cyprus, burning-bush, fireball, Mexican fireweed
<i>Trapa natans</i>	water chestnut, bull nut	<i>Lepidium latifolium</i>	perennial pepperweed
<u><i>Trapa bicornus</i></u>	<u>water caltrap, devil's pod, bat nut</u>	<i>Leucanthemum vulgare</i>	oxeye daisy, white daisy, whiteweed, field daisy, marguerite, poorland flower
<i>Utricularia inflata</i>	swollen bladderwort	<i>Linaria dalmatica</i> spp.dalmatica	Dalmatian toadflax

AMENDATORY SECTION (Amending WSR 02-12-030, filed 5/29/02, effective 6/29/02)

WAC 16-752-610 Noxious weed seed and plant quarantine—Regulated articles. All plants, plant parts, and seeds in packets, blends, and "wildflower mixes" of the following listed species are regulated under the terms of this noxious weed seed and plant quarantine:

Scientific Name	Common Names	Scientific Name	Common Names
<i>Abutilon theophrasti</i>	velvetleaf	<i>Proboscidea louisianica</i>	unicorn-plant
<i>Alliaria petiolata</i>	garlic mustard	<i>Pueraria montana</i> var. <i>lobata</i>	kudzu
<i>Amorpha fruticosa</i>	indigobush, lead plant	<i>Salvia aethiopsis</i>	Mediterranean sage
<i>Anchusa officinalis</i>	common bugloss, alkanet, anchusa	<i>Salvia pratensis</i>	meadow clary
<i>Anthriscus sylvestris</i>	wild chervil	<i>Salvia sclarea</i>	clary sage
<i>Carduus acanthoides</i>	plumeless thistle	<i>Senecio jacobaea</i>	tansy ragwort
<i>Carduus nutans</i>	musk thistle, nodding thistle	<i>Silybum marianum</i>	milk thistle
<i>Carduus pycnocephalus</i>	Italian thistle	<i>Solanum elaeagnifolium</i>	silverleaf nightshade
<i>Carduus tenuiflorus</i>	slenderflower thistle	<i>Solanum rostratum</i>	buffaloburr
<i>Centaurea calcitrapa</i>	purple starthistle	<i>Soliva sessilis</i>	lawnweed
<i>Centaurea diffusa</i>	diffuse knapweed	<i>Sorghum halepense</i>	johnsongrass
<i>Centaurea jacea</i>	brown knapweed, rayed knapweed, brown centauri horse-knobs, hardheads	<i>Spartium junceum</i>	Spanish broom
<i>Centaurea jacea</i> x <i>nigra</i>	meadow knapweed	<i>Tamarix ramosissima</i>	saltcedar
		<i>Thymelaea passerina</i>	spurge flax
		<i>Torilis arvensis</i>	hedgearsley
		<i>Ulex europaeus</i>	gorse, furze
		<i>Zygophyllum fabago</i>	Syrian bean-caper

WSR 04-14-019
EXPEDITED RULES
JAIL INDUSTRIES BOARD

[Filed June 28, 2004, 11:17 a.m.]

Title of Rule and Other Identifying Information: Chapter 288-02 WAC, Jail Industries Board arbitration process. As directed by legislation, the Jail Industries Board seeks to establish a voluntary arbitration process for resolving conflicts arising among the local business community and labor organizations concerning new jail industries programs, products, services, or wages.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jill Will, Jail Industries Board, 3060 Willamette Drive N.E., Suite 100, Lacey, WA 98516, AND RECEIVED BY September 7, 2004.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal outlines an informal arbitration process that interested parties may use to resolve disputes regarding the appropriate use of jail inmate labor. Legislation directs the board to establish this process, however, the legislation does not grant the board statutory enforcement powers. All participation in the arbitration process is voluntary and the goal of the process is to reach voluntary, mutually satisfactory agreements. Recommendations resulting from the arbitration process do not have the force of law.

This is a new section that does not change any existing rules.

Reasons Supporting Proposal: The rule fulfills a statutory directive to develop an arbitration process.

Statutory Authority for Adoption: RCW 36.110.060.

Statute Being Implemented: RCW 36.110.060.

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

Name of Proponent: Jail Industries Board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jill Will, Jail Industries Board, 3060 Willamette Drive N.E., Suite 100, Lacey, WA 98516, (360) 486-2432.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The Jail Industries Board does not have statutory enforcement powers. Participation in the arbitration process outlined is voluntary on the part of all parties.

June 24, 2004
 Jill Will
 Executive Director

Chapter 288-02 WAC

Jail Industries Board Arbitration Process

NEW SECTION

WAC 288-02-010 Authority. RCW 36.110.060, Duties of the board, directs the board to establish an arbitration process for resolving conflicts arising among the local business community and labor organizations concerning new jail industries programs, products, services, or wages. The board does not have enforcement powers and participation in the arbitration process is voluntary.

NEW SECTION

WAC 288-02-020 Issues considered for arbitration. The following matters will be considered for arbitration: disputes regarding appropriate use of inmate labor, funds and fees, and working conditions.

NEW SECTION

WAC 288-02-030 Mechanism of the arbitration process. (1) Issues should be reduced to letter format and directed to the executive director of the jail industries board. Every effort possible will be made to assist the complainant in developing the complaint.

(2) Three board members will be selected by the jail industries board chair to conduct an informal hearing and gather as much information as possible, reminding each party that all decisions and opinions are voluntary and have no actual legal standing. The jail industries board's executive director will act as record keeper and facilitator.

(3) The board will attempt to reconcile the issues as presented. This may be done by offering suggestions, asking others for their opinions, or pointing out to each party how a negotiated arrangement may look. The goal of the process is to reach a voluntary agreement.

(4) For the record, the executive director of the jail industries board will keep on file the information used by both parties and the outcome of the arbitration process. The board will use this information to assist with future arbitration issues.

(5) If a voluntary agreement cannot be reached, the board will advise both parties of next step options they may take.

WSR 04-14-051
EXPEDITED RULES
DEPARTMENT OF
VETERANS AFFAIRS

[Filed June 29, 2004, 4:31 p.m.]

Title of Rule and Other Identifying Information: Title 484 WAC, relating to departmental headquarters and state veterans homes.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Heidi Audette, Washington Department of Veterans Affairs, P.O. Box 41150, Olympia, WA 98504, AND RECEIVED BY September 7, 2004.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To correct references within the Washington Department of Veterans Affairs (WDVA) rules to other agency rules such as DSHS and DOH that have been revised, renumbered and/or reclassified.

To eliminate redundancy in WDVA rules.

To correct typographical errors or clarify language.

Reasons Supporting Proposal: WDVA rules currently refer to a number of WAC citations that no longer exist. These WACs have been revised, renumbered and/or reclassified within other agencies. It is important to update the WDVA rules to reflect the changes made in other agencies to ensure necessary information is available to residents, staff and members of the public.

One of the WDVA rules contains the same information in two places. A section of the rule will be deleted to reduce unnecessary language.

Statutory Authority for Adoption: RCW 43.60A.070 and chapter 72.36 RCW.

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

Name of Proponent: Washington Department of Veterans Affairs, governmental.

Name of Agency Personnel Responsible for Drafting: Heidi Audette, P.O. Box 41150, Olympia, WA 98504, (360) 725-2154; Implementation and Enforcement: Lourdes Alvarado-Ramos, P.O. Box 41150, Olympia, WA 98504, (360) 725-2155.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: WAC 484-120-045, delete reference to chapter 1-08 WAC and replace with chapter 1-21 WAC. Delete reference to WAC 484-120-105 and replace with WAC 484-20-105.

WAC 484-10-050, delete reference to WAC 484-120-105 and replace with WAC 484-20-105.

WAC 484-20-010, delete reference to subsection (20) of WAC 388-97-005. Leave reference of WAC 388-97-005 intact.

WAC 484-20-015, delete reference to WAC 388-97-240 and replace with WAC 388-97-247 through 388-97-388. Delete "annual" in reference to the resident review. Correct reference to PASRR. Delete reference to WAC 388-97-245 and replace with WAC 388-97-247 through 388-97-260.

WAC 484-20-035, delete reference to chapter 388-95 WAC and replace with WAC 388-513-1364 through 388-513-1366.

WAC 484-20-040, delete reference to chapter 388-95 WAC and replace with WAC 388-513-1350.

WAC 484-20-045, delete reference to WAC 388-97-235 and replace with WAC 388-513-1315.

WAC 484-20-065, delete reference to chapter 388-95 WAC and replace with WAC 388-478-0070, 388-513-1315, and 388-513-1395. Add the word "apply" after two references to chapter 388-513 WAC. Delete reference to WAC 388-527-2710 and replace with chapter 388-527 WAC. Delete all of subsection (10) and renumber subsection (11).

WAC 484-20-087, delete reference to chapter 7.02 RCW and replace with chapter 70.129 RCW.

WAC 484-20-103, delete reference to WAC 388-97-270 and replace with WAC 388-97-042.

WAC 484-20-105, delete reference to WAC 388-97-270 and replace with WAC 388-97-042. Add reference to WAC 388-97-043 for transfer and/or discharge appeals. Delete reference to subsection (2)(e) in WAC 484-20-120 and replace with reference to subsections (1)(a), (b), and (c) in WAC 484-20-120. Delete reference to subsection (5) of WAC 484-20-120 and replace with reference to subsection (1)(e) of WAC 484-20-120.

WAC 484-20-116, delete reference to WAC 388-97-280 and replace with WAC 388-97-047.

WAC 484-20-120, delete reference to WAC 388-97-270 and replace with WAC 388-97-042.

June 29, 2004

Heidi Audette

Public Relations and
Legislative Manager

AMENDATORY SECTION (Amending Order 7659, filed 7/28/77)

WAC 484-10-045 Practice and procedures. In those contested cases, declaratory proceedings, and requests for rule making in which the department of veterans affairs has authority to conduct hearings, practice and procedure shall be in accordance with those uniform rules promulgated by the code reviser and codified as chapter ((1-08)) 1-21 WAC as now written or as hereafter amended except for those situations covered under WAC ((484-120-105)) 484-20-105.

AMENDATORY SECTION (Amending Order 7659, filed 7/28/77)

WAC 484-10-050 Exception to rules. (1) The rules are necessarily based on conditions which are considered to apply in the great majority of situations. Individual circumstances may exist in which application of the rule seems to work in opposition to the objective desired. This may occur when an individual's situation differs from that of the majority or when his circumstances are peculiar. In these cases, exceptions may be considered.

(2) An exception cannot be made to a specific provision of the law. However, individual case exception to a rule or procedure not specifically enunciated in the law can be authorized by the department of veterans affairs when it appears to be in the best interest of overall economy and the individual's welfare.

EXPEDITED

(3) Exception decisions are not subject to the fair hearing procedure of WAC ((484-120-105)) 484-20-105.

AMENDATORY SECTION (Amending WSR 01-23-001, filed 11/7/01, effective 12/8/01)

WAC 484-20-010 Definitions. The following words or phrases are used in this chapter in the meaning given, unless the context clearly indicates another meaning.

(1) Admission team - A team consisting of a designated veterans benefit specialist and designated medical or nursing staff.

(2) Adjudicative proceeding - In accordance with RCW 34.05.010(1), an adjudicative proceeding is a proceeding before an agency in which an opportunity for hearing before that agency is required by statute or constitutional right before or after the entry of an action by the agency.

(3) Administrative action - An act (as defined in RCW 34.05.010(3)) taken by the agency or state veterans home which implements or enforces a statute, applies an agency rule or order, or imposes sanctions or withholds benefits.

(4) Comprehensive care plan - A plan which outlines details of health care for Medicaid certified nursing facility residents.

(5) Cost of care.

(a) Daily rate - The maximum daily cost (rate) to provide care and services to a Medicaid recipient. The daily rate is set annually by the department of social and health services and applies to all Medicaid certified nursing facility residents. A different daily rate is established for the Washington veterans home, the Washington soldiers home, and the eastern Washington veterans home (also known as the Spokane veterans home).

(b) Private rate - The daily cost (rate) to provide services to state veterans home residents who have resource levels exceeding standards in WAC 484-20-040. There is a different private rate for nursing care and domiciliary care. The private rate is based on actual operating costs.

(c) Resident contribution - The monthly amount a resident pays to the state veterans home as partial payment of the cost of care. If the resident is a Medicaid recipient, the resident contribution is determined by the appropriate community service office. If the resident is not a Medicaid recipient, the resident contribution is determined by the facility. The resident contribution is recalculated with any change in the resident's monthly income.

(6) Department - The department of veterans affairs.

(7) Director - The director of the department of veterans affairs or his/her designee.

(8) Domiciliary care - Is the provision of a home, with necessary ambulant medical care. To be entitled to domiciliary care, the applicant must consistently have a disability, disease or injury which is chronic in nature and produces disablement of such a degree and probable persistency as will incapacitate from earning a living for a prospective period.

(9) Facility - Refers to either the Washington veterans home, the Washington soldiers home or the eastern Washington veterans home (also known as the Spokane veterans home), but **does not** include the Medicaid certified nursing facility.

(10) Furlough - An approved absence for facility residents.

(11) Grievance - An oral or written statement of any difficulty, disagreement, or dispute relating in any way to a facility, a resident or facility staff.

(12) Grievance investigator - State veterans home social service staff or another appropriate person requested by the resident who investigates a grievance.

(13) Income - The receipt by an individual of any property or service which he/she can apply either directly, by sale, or conversion to meet his/her basic needs for food, clothing, and shelter.

(a) Earned income - Gross wages for services rendered and/or net earnings from self-employment. Earned income received at predictable intervals other than monthly or in unequal amounts will be converted to a monthly basis.

(b) Unearned income - All other income.

(14) Medicaid certified nursing facility - Refers to those nursing care units of each state veterans home that are Medicaid certified as described under WAC 388-97-005(((20))).

(15) Personal needs allowance - In accordance with chapter 72.36 RCW the amount which a resident may retain from his/her income.

(16) Rehabilitation leave - A period of time granted to permit a resident to attempt to reestablish independent living or other care arrangements in a community of his/her choice while retaining the right to return to the facility without reapplying for admission.

(17) Rehabilitation plan - Describes individualized goals for professional treatment, counseling and/or guidance necessary to restore to the maximum extent possible the physical, mental and psychological functioning of an ill or disabled person.

(18) Resources - Cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.

(a) When an individual can reduce a liquid asset to cash, it is a resource.

(b) If an individual cannot reduce an asset to cash, it is not considered an available resource.

(c) Liquid - Assets that are in cash or are financial instruments which are convertible to cash such as, but not limited to, cash in hand, stocks, savings, checking accounts, mutual fund shares, mortgage, promissory notes.

(d) Nonliquid - All other property both real and personal shall be evaluated according to the price that can reasonably be expected to sell for on the open market in the particular geographical area involved.

(19) Resident - An individual who resides at a state veterans home.

(20) Resident council - A group of residents elected in accordance with RCW 72.36.150 by facility residents.

(21) Social leave - An approved absence for residents of Medicaid certified nursing facility units.

(22) State veterans home - Refers to the Washington soldiers home and colony in Orting, the Washington veterans home in Retsil, the eastern Washington veterans home (also known as the Spokane veterans home), or all.

EXPEDITED

(23) Staff - Any individual hired or contracted to provide care and services at the state veterans homes.

(24) Superintendent - The licensed nursing home administrator appointed by the director to administer the day-to-day operations of a state veterans home.

AMENDATORY SECTION (Amending WSR 94-22-050, filed 10/31/94, effective 12/1/94)

WAC 484-20-015 Application for admission. (1) Applications for admission to a state veterans home shall be made using forms prescribed by the department.

(2) All applications shall include either a copy of the applicant's military discharge or a statement from the applicable military service denoting the dates and character of service. An individual whose eligibility is based on the military service of a spouse shall provide proof of the spouse's military service.

(3) An admissions team shall:

(a) Review each application to ensure inclusion of all information and documents necessary to determine eligibility for admission;

(b) For admission to a Medicaid certified nursing facility, ensure a preadmission screening (in accordance with state regulations at WAC ((388-97-240)) 388-97-247 through 388-97-388) and if necessary a preadmission screening and ((annual)) resident review ((PASARR)) PASRR (in accordance with state regulations at WAC ((388-97-245)) 388-97-247 through 388-97-260) have been conducted; and

(c) Recommend to the director that the application be approved or denied. The applicant shall receive written notice of the decision in accordance with WAC 484-20-103.

(4) Applications are reviewed and approved or denied in the order of receipt.

AMENDATORY SECTION (Amending WSR 94-22-050, filed 10/31/94, effective 12/1/94)

WAC 484-20-035 Eligibility—Transfer of resources. Eligibility for admission as related to transfer of resources is determined by application of medical assistance eligibility rules as defined in ((chapter 388-95)) WAC 388-513-1364 through 388-513-1366.

AMENDATORY SECTION (Amending WSR 94-22-050, filed 10/31/94, effective 12/1/94)

WAC 484-20-040 Eligibility—Indigency. (1) An applicant shall be considered indigent if:

(a) His/her assets and total annual income for the year following admission, less resources and income retained pursuant to WAC 484-20-065 and divided by twelve, does not exceed the private rate for the section/unit for which he/she is making application; or

(b) He/she is found eligible to receive Medicaid.

(2) If an applicant does not meet the requirements of subsection (1) of this section, he/she may be eligible for admission if:

(a) He/she will become indigent through purchase of necessary long term care; or

(b) He/she agrees to make reasonable efforts to sell any nonliquid resources considered nonexempt under ((chapter 388-95)) WAC 388-513-1350, and pay at the private rate.

(3) An applicant for residency in the colony of the Washington soldiers home may not have income in excess of the federal poverty level. Colony residents may own real property provided such property is the domicile of the colony resident and is located in the Orting school district.

AMENDATORY SECTION (Amending WSR 94-22-050, filed 10/31/94, effective 12/1/94)

WAC 484-20-045 Eligibility—Inability to support self/need for care. (1) To be eligible for admission an applicant must be indigent as defined in WAC 484-20-040 and be in need of:

(a) Medicaid certified nursing facility care as described in WAC ((388-97-235)) 388-513-1315; or

(b) Nursing care other than Medicaid certified nursing facility care; or

(c) Domiciliary care.

(2) Applicants who are not in need of care as described in subsection (1) of this section are eligible for admission only if their application includes a rehabilitation plan. Such applicants shall be admitted for a specific period as defined by the rehabilitation plan. Any reductions or extensions of the period of residency are made upon recommendation of the interdisciplinary patient care team and are based on the resident's progress toward meeting or refusal to meet goals outlined in the rehabilitation plan.

AMENDATORY SECTION (Amending WSR 95-07-082, filed 3/16/95, effective 4/16/95)

WAC 484-20-065 Use of residents' income and resources. (1) **Monthly payments.** Each month residents shall pay to the state veterans home all income in excess of the established personal needs allowance. This payment shall be known as the resident contribution as defined in WAC 484-20-010 (5)(c). Department policy establishes the payment due date. The amount paid shall not exceed the private rate for the program/service area in which the resident resides. Subsections (3) and (5) of this section list exceptions.

(2) **Personal needs allowance.**

(a) **Single residents.** If the resident's monthly income equals or exceeds the established personal needs allowance, he/she may retain the established personal needs allowance. If the individual's monthly income is less than the established personal needs allowance, his/her personal needs allowance shall be limited to:

(i) For residents who are Medicaid recipients, the personal needs allowance authorized by the appropriate department of social and health services community service office; or

(ii) For residents who are not Medicaid recipients to the income which he/she receives.

(b) **Married residents, both residing in the state veterans home.** If each individual's income equals or exceeds the established personal needs allowance, each may retain the established personal needs allowance. If one of the individual's monthly income is less than the established personal

needs allowance, his/her personal needs allowance shall be limited to:

(i) For residents who are Medicaid recipients, the personal needs allowance authorized by the appropriate department of social and health services community service office; or

(ii) For residents who are not Medicaid recipients, to the income to which he/she has an individual right.

(3) **Exceptions to monthly payments.** (Note: This subsection (3) only applies to residents who are not Medicaid recipients. The department of social and health services makes these types of determinations for residents who are Medicaid recipients in accordance with applicable Medicaid rules.) Residents may be authorized to retain (in addition to their personal needs allowance) the following:

(a) If a resident is on approved rehabilitation leave, monthly income which he/she would be entitled to receive if living in the community.

(b) If a resident is participating in an approved vocational rehabilitation program, the monthly vocational rehabilitation program earnings.

(c) If a resident is participating in a therapeutic employment program and it is documented in his/her plan of care, monthly therapeutic employment earnings; except for Medicaid recipients the amount retained shall not exceed limits established under medical assistance eligibility rules (~~chapter 388-95~~) WAC 388-478-0070, 388-513-1315, and 388-513-1395).

(4) Application for benefits/entitlements.

(a) Residents are required to apply for any and all entitlements or benefits as soon as they become eligible.

(b) Agency veterans benefit staff shall assist residents to make application for entitlements and benefits.

(c) Residents who apply for Medicaid and meet medical need requirements but are over the resource limit, shall be advised to seek the necessary assistance (to include legal advice) to reduce their resources. Residents shall be billed at the private rate until Medicaid resource limits are met.

(5) Support of a nonresident spouse.

(a) If a resident is a Medicaid recipient and has a community spouse, the provisions of chapter 388-513 WAC apply; except where preempted by federal law; shall apply to income and resources.

(b) If a resident is not a Medicaid recipient and has a community spouse, the provisions of chapter 388-513 WAC apply; except where preempted by federal law; shall be used to determine:

(i) Available and exempt income and resources with regard to eligibility and resident participation;

(ii) Ownership of income and resources; and

(iii) Participation by the community spouse.

(6) Only subsection (4)(a) and (b) of this section applies to residents of the colony at the Washington soldiers home.

(7) Resource limits.

(a) For residents who are Medicaid recipients, resource limits are in accordance with Medicaid rules found at chapter 388-513 WAC.

(b) For residents who are not Medicaid recipients, resource limits shall be established by the facility using the

Medicaid resource limit for a single or a married individual; whichever is applicable.

(c) If a resident who is a Medicaid recipient receives or accumulates funds in excess of resource limits in (a) of this subsection, the case shall be referred to the appropriate department of social and health services community service office to adjust the resident contribution and/or determine continuing Medicaid eligibility. If the community service office determines the resident is no longer eligible to receive Medicaid benefits, the resident shall pay at the private rate until Medicaid eligibility is reestablished.

(d) If a resident who is not a Medicaid recipient receives or accumulates funds in excess of resource limits in (b) of this subsection, the resident shall pay at the private rate until accumulated funds are reduced to the resource limit.

(e) Exceptions to the resource limits in (b) of this subsection may be granted on a case-by-case basis if a resident has an approved discharge plan which includes a goal to reestablish independent community living through either an approved rehabilitation leave or participation in an approved vocational rehabilitation program.

(8) Retroactive, lump sum benefits.

(a) If a Medicaid recipient receives a retroactive, lump sum award of benefits, he/she shall be required to report the award to the appropriate department of social and health services community service office. If the resident continues to be eligible for Medicaid, the community service office will issue a new Medicaid award letter which adjusts the resident contribution if appropriate. If the community service office determines the resident is no longer Medicaid eligible, the award shall be counted as income for the month(s) in which moneys would have been received and the resident shall pay retroactively the resident contribution due from date of admission to date of receipt of the retroactive lump sum award; except the resident contribution will not be collected for those months during which the resident received Medicaid benefits. If the resident's resources still exceed Medicaid resource limits, the resident shall pay at the private rate until Medicaid eligibility is reestablished.

(b) If a resident who is not a Medicaid recipient receives a retroactive lump sum award, the award shall be counted as income for the month(s) in which moneys would have been received and the resident shall pay retroactively the resident contribution due from date of admission to date of receipt of the retroactive lump sum award.

(9) The estate of any individual who is a resident at the time of death will be charged for the balance of any cost of care which the resident did not pay during his/her residency in the state veterans home. The state veterans home shall periodically inform the resident of the total amount of any past due cost of care. For residents who are Medicaid recipients, recovery shall be in accordance with ((WAC 388-527-2749) chapter 388-527 WAC. For any resident who is not a Medicaid recipient, recovery shall be in accordance with a written agreement made at the time of admission.

(10) ~~(Residents and their spouses are required to disclose to the department all income and assets. For Medicaid recipients, disclosure will be accomplished following medical assistance rules. For all other residents, including colony residents at the Washington soldiers home, disclosure will be~~

~~done at least annually when scheduled by the state veterans home, more frequently as requested by the state veterans home to verify continuing eligibility, or within fourteen days of any change in income and/or assets.~~

(11)) For any partial months of residency the resident's contribution shall apply first.

AMENDATORY SECTION (Amending WSR 94-22-050, filed 10/31/94, effective 12/1/94)

WAC 484-20-087 Resident rights. In compliance with federal requirements at 42 CFR § 483.10, residents of a state veterans home have the right to a dignified existence, self-determination and communication with and access to persons and services inside and outside the state veterans home. The state veterans homes shall protect and promote the rights of each resident, including those with limited cognition or other barriers that limit the exercise of rights:

(1) Exercise of rights.

(a) The resident has the right to exercise his or her rights as a resident of the state veterans home and as a citizen or resident of the United States.

(b) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the state veterans home in exercising his or her rights.

(c) In the case of a resident adjudged incompetent under the laws of the state by a court of competent jurisdiction, the rights of the resident are exercised by the person appointed under state law to act on the resident's behalf.

(d) In the case of a resident who has not been adjudged incompetent by the state court, any legal-surrogate designated in accordance with state law may exercise the resident's rights to the extent provided by state law.

(e) The state veterans home shall not require the resident to sign any contract or agreement that purports to waive any right of the resident.

(2) Notice of rights and services.

(a) The state veterans home shall inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the state veterans home. Such notification must be made prior to or upon admission and during the resident's stay. Receipt of such information, and any amendments to it shall be acknowledged in writing.

(b) The resident or his or her surrogate decision maker has the right:

(i) Upon an oral or written request, to access all records pertaining to the resident including clinical records within twenty-four hours for Medicaid certified nursing facility residents and according to chapter ((7-02)) 70.129 RCW, for other facility residents; and

(ii) After receipt of his or her records for inspection, to purchase at a cost not to exceed the community standard, photocopies of the records or any portions of them upon request and two working days advance notice to the state veterans home.

(c) The resident has the right to be fully informed in language that he or she can understand of his or her total health

status, including but not limited to, his or her medical condition.

(d) The resident has the right to refuse treatment, and to refuse to participate in experimental research; and

(e) The state veterans home shall according to federal regulations at 42 CFR § 483.10 (c)(8):

(i) Inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the Medicaid certified nursing facility or, when the resident becomes eligible for Medicaid of:

(A) The items and services that are included in Medicaid certified nursing facility services under the state plan and for which the resident may not be charged;

(B) Those other items and services that the state veterans home offers and for which the resident may be charged, and the amount of charges for those services; and

(ii) Inform each resident when changes are made to the items and services specified in (e)(i)(A) and (B) of this subsection.

(f) The state veterans home shall inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the state veterans home and of charges for those services, including any charges for services not covered under Medicaid or the Medicaid certified nursing facility daily rate.

(g) Disclosure of fees. Prior to admission, the state veterans home shall provide the applicant information on the amount which will be due upon admission.

(h) The state veterans home shall furnish a written description of legal rights which includes:

(i) A description of the manner of protecting personal funds, under subsection (3) of this section;

(ii) In the case of a Medicaid certified nursing facility resident, a description of the requirements and procedures for establishing eligibility for Medicaid, including the right to request an assessment which determines the extent of a couple's nonexempt resources at the time of admission and attributes to the community spouse an equitable share of resources which cannot be considered available for payment toward the cost of the resident's medical care in his or her process of spending down to Medicaid eligibility levels;

(iii) A posting of names, addresses, and telephone numbers of all pertinent state client advocacy groups such as the state survey and certification agency and the state ombudsman program, the protection and advocacy network, and the Medicaid fraud control unit; and

(iv) A statement that the resident may file a complaint with the state survey and certification agency concerning resident abuse, neglect, and misappropriation of resident property in the state veterans home.

(i) The state veterans home shall inform each resident of the name, specialty, and way of contacting the physician responsible for his or her care.

(j) The Medicaid certified nursing facility shall prominently display in the Medicaid certified nursing facility written information and provide to residents and applicants for admission oral and written information about how to apply for and use of Medicare and Medicaid benefits, and how to receive refunds for previous payments covered by such benefits.

(k) Notification of changes.

(i) The state veterans home must immediately inform the resident; consult with the resident's physician; and if known, notify the resident's surrogate decision maker and when appropriate, with the resident's consent, an interested family member when there is:

(A) An accident involving the resident which results in injury and has the potential for requiring physician intervention;

(B) A significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications);

(C) A need to alter treatment significantly (i.e., a need to discontinue an existing form of treatment due to adverse consequences, or to commence a new form of treatment); or

(D) A decision to transfer or discharge the resident from the state veterans home.

(ii) The state veterans home shall also promptly notify the resident and, if known, the resident's surrogate decision maker and when appropriate, with the resident's consent an interested family member when there is:

(A) A change in room or roommate assignment; or

(B) A change in resident rights under federal or state law or regulations.

(iii) The facility must record and periodically update the address and phone number of the resident's surrogate decision maker and interested family member.

(3) Protection of resident funds.

(a) The resident has the right to manage his or her financial affairs, and the state veterans home may not require residents to deposit their personal funds with the state veterans home.

(b) Management of personal funds. Upon written authorization of a resident, the state veterans home shall hold, safeguard, manage, and account for the personal funds of the resident deposited with the state veterans home.

(c) Accounting and records. The state veterans home must establish and maintain a system that assures a full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf.

(i) The system must preclude any commingling of resident funds with state veterans home funds or with the funds of any person other than another resident.

(ii) The individual financial records must be available through quarterly statements on request to the resident or his or her legal representative.

(d) Notice of certain balances. The state veterans home shall notify each resident that receives Medicaid benefits:

(i) When the amount in the resident's account reaches two hundred dollars less than the SSI limit for one person; and

(ii) That, if the amount in the account, in addition to the value of the resident's other nonexempt resources, reaches the SSI limit for one person, the resident may lose eligibility for Medicaid or SSI.

(e) Conveyance upon death. Upon the death of a resident with a personal fund deposited with the state veterans home, the state veterans home must convey within thirty days the

resident's funds, and a final accounting of those funds, to the individual or probate jurisdiction administering the resident's estate.

(f) Assurance of financial security. The state veterans homes are self-insured and assure the security of personal funds of residents deposited with the state veterans home.

(g) Limitation on charges to personal funds. The state veterans home may not impose a charge against the personal funds of a resident for any item or service for which payment is made under Medicaid, Medicare or the U.S. Department of Veterans Affairs.

(h) The state veterans home shall:

(i) Not charge a resident (or the resident's representative) for any item or service not requested by the resident;

(ii) Not require a resident (or the resident's representative) to request any item or service as a condition of admission or continued stay; and

(iii) Inform the resident (or the resident's representative) requesting an item or services for which a charge will be made that there will be a charge for the item or service and what the charge will be.

(4) Free choice. The resident has the right to:

(a) Choose a personal attending physician;

(b) Be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well-being; and

(c) Unless adjudged incompetent or otherwise found to be incapacitated under the laws of the state, participate in planning care and treatment or changes in care and treatment.

(5) Privacy and confidentiality. The resident has the right to personal privacy and confidentiality of his or her personal and clinical records.

(a) Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups, but this does not require the state veterans home to provide a private room for each resident;

(b) Except as provided in (c) of this subsection, the resident may approve or refuse the release of personal and clinical records to any individual outside the state veterans home;

(c) The resident's right to refuse release of personal and clinical records does not apply when:

(i) The resident is transferred to another health care institution; or

(ii) Record release is required by law.

(6) Grievances. A resident has the right to:

(a) Voice grievance without discrimination or reprisal. Such grievances include those with respect to treatment which has been furnished as well as that which has not been furnished; and

(b) Prompt efforts by the state veterans home to resolve grievances the resident may have, including those with respect to the behavior of other residents.

(7) Examination of survey results. A resident has the right to:

(a) Examine the results of the most recent survey or complaint investigation of the Medicaid certified nursing facility conducted by federal or state surveyors or inspectors and any plan of correction in effect with respect to the Medicaid cer-

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tified nursing facility. The Medicaid certified nursing facility shall:

(i) Publicly post a copy of the most recent survey and complaint investigation until the violation is corrected to the satisfaction of the department of social and health services, up to a maximum of one hundred twenty days;

(ii) Make a copy of the survey results available for examination in a place readily accessible to residents;

(iii) Post a notice that the results of the survey or investigation are available and the location of the surveys when not posted; and

(iv) Post surveys and notices in a place or places in plain view of the residents in the Medicaid certified nursing facility, persons visiting those residents, and persons who inquire about placement in the Medicaid certified nursing facility; and

(b) Receive information from agencies acting as client advocates, and be afforded the opportunity to contact these agencies.

(8) Work. The resident has the right to:

(a) Refuse to perform services for the state veterans home;

(b) Perform services for the state veterans home, if he or she chooses, when:

(i) The state veterans home has documented the need or desire for work in the plan of care;

(ii) The plan specifies the nature of the services performed and whether the services are voluntary or paid; and

(iii) The resident agrees to the work arrangement described in the plan of care.

(9) Mail. The resident has the right to privacy in written communications, including the right to:

(a) Send and promptly receive mail that is unopened; and

(b) Have access to stationery, postage, and writing implements at the resident's own expense.

(10) Access and visitation rights.

(a) The resident has the right and the state veterans home shall provide immediate access to any resident by the following:

(i) Any representative from the federal or state agency administering Medicaid or U.S. Department of Veterans Affairs health care programs;

(ii) The resident's individual physician;

(iii) Any representative of the state long term care ombudsman (established under section 307 (a)(12) of the Older American's Act of 1965);

(iv) Subject to the resident's right to deny or withdraw consent at any time, immediate family or other relatives of the resident; and

(v) Subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, others who are visiting with consent of the resident.

(b) The state veterans home shall provide reasonable access to any resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(c) The state veterans home shall allow representatives of the state ombudsman, described in (a)(iii) of this subsection, to examine a resident's clinical records with the written

permission of the resident or the resident's surrogate decision maker, and consistent with state law.

(11) Telephone. The resident has the right to have twenty-four-hour access to a telephone which:

(a) Provides auditory privacy; and

(b) Is accessible to a person with a disability and accommodates a person with sensory impairment.

(12) Personal property. The resident has the right to retain and use personal possessions, including some furnishings, and appropriate clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents.

(a) No Medicaid certified nursing facility shall require residents to sign waivers of potential liability for losses of personal property.

(b) The state veterans home shall have a system in place to safeguard personal property within the state veterans home.

(13) Roommates rooms.

(a) A resident shall have the right to share a room with his or her spouse when married residents live in the same state veterans home and both spouses consent to the arrangement.

(b) A resident shall have the right to receive three days notice of change in room or roommate except where the move is at the resident's request, a longer or shorter notice is required to protect the health or safety of the person or other resident, or an admission is necessary.

(c) The Medicaid certified nursing facility shall make reasonable efforts to accommodate residents wanting to share the same room.

(14) Self-administration of drugs. An individual resident may self-administer drugs if the interdisciplinary care team has determined that this practice is safe.

(15) Refusal of certain transfers.

(a) An individual has the right to refuse a transfer to another room within the state veterans home, if the purpose of the transfer is to relocate a resident from a distinct part of the state veterans home that is a Medicaid certified nursing facility to a part of the state veterans home that is not a Medicaid certified nursing facility.

(b) A resident's exercise of the right to refuse transfer under (a) of this subsection does not affect the individual's eligibility or entitlement to Medicare or Medicaid benefits.

AMENDATORY SECTION (Amending WSR 97-06-013, filed 2/25/97, effective 3/28/97)

WAC 484-20-103 Administrative action, notice of.

(1) The state veterans home must notify the resident and the resident's representative, and make a reasonable effort to notify, if known, an interested family member of any proposed administrative action, as defined in RCW 34.05.010(3) and this chapter. Exceptions are indicated in subsection (4) of this section.

(2) All notices of proposed administrative actions must be given in writing, in a manner which the resident understands at least thirty days before the proposed administrative action will occur. Except, notice may be given as soon as practical before a transfer or discharge when:

- (a) The safety of individuals in the state veterans home would be endangered;
 - (b) The health of individuals in the state veterans home would be endangered;
 - (c) An immediate transfer or discharge is required by the resident's urgent medical needs; or
 - (d) A resident has not resided in the facility for thirty days.
- (3) All written notices must include:
- (a) The reason for the proposed action;
 - (b) The effective date of the proposed action;
 - (c) If the proposed action is a transfer or discharge, the location to which the resident is to be transferred or discharged;
 - (d) The name, address and telephone number of the state long-term care ombudsman.
- (4) For Medicaid certified nursing facility residents notice of transfer or discharge is governed by WAC ((388-97-270)) 388-97-042.
- (5) For all transfers or discharges, staff must give sufficient preparation and orientation to residents to ensure a safe transfer or discharge from the state veterans home.

AMENDATORY SECTION (Amending WSR 94-22-050, filed 10/31/94, effective 12/1/94)

WAC 484-20-105 Dispute settlement. Residents have two avenues to appeal an administrative action.

Exception: Transfer and/or discharge of a Medicaid certified nursing facility resident is governed by WAC ((388-97-270)) 388-97-042. Transfer and/or discharge appeals is governed by WAC 388-97-043.

(1) **Informal settlement.** Informal settlement of matters that may make more elaborate proceedings unnecessary under this chapter is strongly encouraged. Use of the informal settlement process does not preclude a resident from requesting an adjudicative proceeding at any time during the informal settlement process.

(a) An informal settlement to review an administrative action by the department may be requested by forwarding a written request to the superintendent, not later than twenty-one days following receipt of the written notice of an administrative action by the state veterans home.

(b) Within fourteen days of receipt of the request for review, the superintendent or his/her designee shall review the administrative action and shall inform the resident of his/her decision to uphold, modify or reverse the administrative action. Notification of the superintendent's decision will be given in writing and in all cases the superintendent's decision shall be final except in the case of a request to continue the matter through an adjudicative proceeding.

(2) **Adjudicative proceeding.** An adjudicative proceeding is a formal appeal of an administrative action.

(a) An adjudicative proceeding may be requested by forwarding a written request to the superintendent not later than twenty-one days from the date the resident receives the notice of an administrative action or a final decision under the informal settlement provisions of this section.

(b) All such requests shall include a statement of whether the resident is represented and, if so, the name and address of

the representative and be signed by the resident or his/her legal representative.

(c) The department shall immediately forward the request to the office of administrative hearings for scheduling of an administrative hearing pursuant to chapters 34.05 and 34.12 RCW and chapter 10-08 WAC.

(d) Any administrative action imposed pursuant to this chapter shall be deferred until the outcome of the administrative hearing except in cases of discharge under WAC 484-20-120 ((~~2~~)(e)) (1)(a), (b), and (c).

(e) Administrative hearings pursuant to this subsection shall be conducted in the state veterans home in which the client resides except that in cases of discharge under WAC 484-20-120((~~5~~)) (1)(e), the hearing shall be conducted in a location which is jointly agreed upon by both parties.

(f) Initial orders issued by the administrative law judge shall become final twenty-one days following issuance, unless the complaining party or the state veterans home requests a review of the order. In the case of such a review, the director or his/her designee, serving as the department's reviewing officer, shall conduct a review pursuant to chapter 34.05 RCW and issue a final order in the matter under consideration.

AMENDATORY SECTION (Amending WSR 94-22-050, filed 10/31/94, effective 12/1/94)

WAC 484-20-116 Social leave—Medicaid funded program residents. (1) Medicaid certified nursing facility residents and staff shall comply with state regulations related to social leave under WAC ((388-97-280)) 388-97-047.

(2) Medicaid certified nursing facility staff shall assist residents in obtaining CSO approval for social leave.

AMENDATORY SECTION (Amending WSR 97-06-013, filed 2/25/97, effective 3/28/97)

WAC 484-20-120 Transfer and discharge of state veterans home residents. (1) Transfer and discharge of state veterans home residents shall be in accordance with RCW 70.129.110. The state veterans home must not transfer or discharge a resident unless:

(a) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;

(b) The safety of individuals in the facility is endangered;

(c) The health of individuals in the facility would otherwise be endangered;

(d) The resident has failed to make the required payment for his/her stay; or

(e) The facility ceases to operate.

(2) In addition, WAC ((388-97-270)) 388-97-042 applies to the transfer and discharge of Medicaid certified facility residents.

(3) Notice of any transfer or discharge given under the authority of this section must be given in accordance with WAC 484-20-103 and is subject to the provisions of WAC 484-20-105.

WSR 04-14-084
EXPEDITED RULES
UNIVERSITY OF WASHINGTON

[Filed July 6, 2004, 1:27 p.m.]

Title of Rule and Other Identifying Information: WAC 478-168-330 Fines, from chapter 478-168 WAC, Regulations for the University of Washington libraries.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rebecca Goodwin Deardorff, University of Washington, Rules Coordination Office, 4014 University Way N.E., Seattle, WA 98105-6203, e-mail rules@u.washington.edu, fax (206) 616-6294, AND RECEIVED BY September 7, 2004.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal repeals WAC 478-168-330 Fines. This section was inadvertently left out of the repealer when the university filed its proposed rule making to amend chapter 478-168 WAC, Regulations for the University of Washington libraries, rules that were adopted by the university on June 11, 2004, and will take effect on September 21, 2004. Because of this omission, WAC 478-168-330 Fines, will conflict with amended section WAC 478-168-310 Fines and charges, as well as with other amendments of these rules on September 21, 2004. Repealing WAC 478-168-330 Fines, will allow the rules in chapter 478-168 WAC to take effect as originally envisioned.

Reasons Supporting Proposal: This proposal meets the criteria for expedited repeal of rules, as stated in RCW 34.05.353 (2)(d), "Other rules of the agency... govern the same activity as the rule, making the rule redundant."

Statutory Authority for Adoption: RCW 28B.20.130.

Statute Being Implemented: RCW 28B.20.130.

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

Name of Proponent: University of Washington, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lizabeth (Betsy) Wilson, Director of University Libraries, 482 Allen Library, University of Washington, Seattle, WA, (206) 543-1763.

July 1, 2004

Rebecca Goodwin Deardorff
Director of Rules Coordination

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 478-168-330 Fines.

EXPEDITED

WSR 04-14-006
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-155—Filed June 24, 2004, 4:33 p.m., effective July 25, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Correct agency name.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-100-110.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 04-09-046 on April 15, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 24, 2004.

Susan Yeager
 for Will Roehl, Chair
 Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 84-144, filed 9/18/84)

WAC 220-100-110 Adoption by reference—Substantial compliance. Except as modified by this chapter, ((fisheries)) the department adopts the SEPA guidelines as adopted by the department of ecology (chapter 197-11 WAC) and as modified or amended from time to time. Substantial compliance with these guidelines shall constitute compliance with this chapter.

WSR 04-14-017
PERMANENT RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed June 28, 2004, 11:09 a.m., effective July 29, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend the rule pursuant to an enacted statutory amendment. This housekeeping amendment will reflect the current pilot license fee of \$3,000.

Citation of Existing Rules Affected by this Order:
 Amending WAC 363-116-070.

Statutory Authority for Adoption: RCW 88.16.090.

Adopted under notice filed as WSR 04-10-030 on April 28, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 10, 2004.

Peggy Larson
 Administrator

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

WAC 363-116-070 Collection of fees. All pilots shall pay an annual license fee of ((two thousand five hundred)) three thousand dollars for every year in which they perform any pilotage services. If a licensed pilot does not perform pilotage services during a license year, his/her fee for that year shall be reduced to five hundred dollars upon application to the board. The board of pilotage commissioners shall receive all fees for licenses or for other purposes and make proper accounting of same and transmit all such funds to the pilotage account.

WSR 04-14-018
PERMANENT RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed June 28, 2004, 11:15 a.m., effective August 1, 2004]

Effective Date of Rule: August 1, 2004.

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.

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 04-10-031 on April 28, 2004.

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.

Date Adopted: June 10, 2004.

Peggy Larson Administrator

AMENDATORY SECTION (Amending WSR 03-21-089, filed 10/17/03, effective 11/17/03)

WAC 363-116-185 Tariffs, and pilotage rates for the Grays Harbor pilotage district. Effective 0001 hours August 1, 2004, through 2400 hours July 31, ((2004)) 2005.

CLASSIFICATION OF PILOTAGE SERVICE RATE

Fees for piloting of vessels in the inland waters and tributaries of Grays Harbor shall consist of the following:

Draft and tonnage fees:

Each vessel shall be charged according to its draft and tonnage for each vessel movement inbound to the Grays Harbor pilotage district, and for each movement outbound from the district. 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.

Provided that, due to unique circumstances in the Grays Harbor pilotage district, vessels that call, and load or discharge cargo, at Port of Grays Harbor Terminal No. 2 shall be charged \$5,000 per movement for each vessel movement inbound to the district for vessels that go directly to Terminal No. 2 or that go to anchor and then go directly to Terminal No. 2, and for each vessel movement outbound from the district from Terminal No. 2, and that this charge shall be in lieu of only the draft and tonnage fees listed above.

Boarding fee:

Per each boarding/deboarding from a boat or helicopter \$((389-67))
800.00

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 \$((172.00))
190.00

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 04-14-023
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed June 28, 2004, 12:30 p.m., effective July 29, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To implement the "SERS Substitutes" legislation, chapter 157, Laws of 2003. This is one of several rules proposed for adoption in December 2003. It was inadvertently omitted when the other rules were adopted (WSR 04-04-041 on January 29, 2004).

Citation of Existing Rules Affected by this Order: Amending WAC 415-108-680.

Statutory Authority for Adoption: RCW 41.50.050(5).
Other Authority: RCW 41.35.010, 41.35.030, 41.35.033.

Adopted under notice filed as WSR 04-01-154 on December 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 1, Repealed 0.

PERMANENT

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.

Date Adopted: June 24, 2004.

John Charles
Director

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-108-680 Am I eligible for membership? (1) You are eligible for membership if you are employed in an eligible position. Your position is eligible under RCW 41.40.010 if the position, as defined by your employer, normally requires at least five months of seventy or more hours of compensated service per month during each year. If you are a PERS Plan 1 member working in a SERS substitute position, the SERS substitute laws do not apply. If you are a Plan 2 or 3 member, hours worked as a SERS substitute are not counted when determining eligibility for membership.

(2) **If you leave an eligible position to serve in a project position, you may retain eligibility.**

(a) Project positions may use a twelve-month period other than a school year to evaluate eligibility. The employer must consistently apply this twelve-month period to evaluate the eligibility of this position.

(b) If you are a member and you leave employment in an eligible position to serve in a project position, the project position is eligible if:

((a)) (i) The position, as defined by the employer, normally requires at least five months of seventy or more hours of compensated service each month; or

((b)) (ii) The position requires at least seventy hours per month and you take the position with the understanding that you are expected to return to your permanent eligible position at the completion of the project.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.40.010.

(b) "Employer" - RCW 41.40.010.

(c) "Member" - RCW 41.40.010.

(d) "Membership" - RCW 41.40.023.

(e) "Normally" - WAC ((415-108-0402)) 415-108-010.

(f) "Project position" - WAC 415-108-010.

(g) "Year" - WAC 415-108-010.

WSR 04-14-025
PERMANENT RULES
PUGET SOUND
CLEAN AIR AGENCY

[Filed June 29, 2004, 12:11 p.m., effective August 1, 2004]

Effective Date of Rule: August 1, 2004.

Purpose: To improve the classification of air contaminant sources and to clarify reporting requirements.

Citation of Existing Rules Affected by this Order: Repealing Section 5.02 of Regulation I; and amending Sections 5.03, 5.05, and 5.07 of Regulation I.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 04-11-122 on May 19, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 24, 2004.

Gerald Pade
Engineer

REPEALER

REGULATION I SECTION 5.02 APPLICABILITY AND PURPOSE OF THE REGISTRATION PROGRAM

AMENDATORY SECTION

REGULATION I SECTION 5.03 APPLICABILITY OF REGISTRATION PROGRAM ((REQUIRED))

(a) The requirements of this article shall apply only to:

(1) Sources subject to a federal emission standard under:

(A) 40 CFR Part 60 (except Subparts B, S, BB, and AAA);

(B) 40 CFR Part 61 (except Subparts B, H, I, K, O, R, T, W, and the provisions of Subpart M pertaining to asbestos on roadways, asbestos demolition and renovation activities, and asbestos spraying);

(C) 40 CFR Part 62; or

(D) 40 CFR Part 63 (except Subpart LL and the provisions of Subparts S and MM pertaining to kraft and sulfite pulp mills);

(2) Sources with a federally enforceable emission limitation established in order to avoid operating permit program applicability under Article 7 of this regulation;

(3) Sources with annual emissions:

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(A) Greater than or equal to 2.50 tons of any single hazardous air pollutant (HAP);

(B) Greater than or equal to 6.25 tons of total hazardous air pollutants (HAP); or

(C) Greater than or equal to 25.0 tons of carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter (PM_{2.5} or PM₁₀), sulfur oxides (SO_x), or volatile organic compounds (VOC);

(4) Sources subject to the following sections of Regulation I, II, or III:

(A) Refuse burning equipment subject to Section 9.05 of Regulation I (including crematories);

(B) Fuel burning equipment or refuse burning equipment burning oil that exceeds any limit in Section 9.08 of Regulation I and sources marketing oil to such sources;

(C) Fuel burning equipment subject to Section 9.09 of Regulation I with a rated heat input greater than or equal to 1 MMBtu/hr of any fuel other than natural gas, propane, butane, or distillate oil, or greater than or equal to 10 MMBtu/hr of any fuel;

(D) Sources with spray-coating operations subject to Section 9.16 of Regulation I;

(E) Petroleum refineries subject to Section 2.03 of Regulation II;

(F) Gasoline loading terminals subject to Section 2.05 of Regulation II;

(G) Gasoline dispensing facilities subject to Section 2.07 of Regulation II;

(H) Volatile organic compound storage tanks subject to Section 3.02 of Regulation II;

(I) Can and paper coating facilities subject to Section 3.03 of Regulation II;

(J) Motor vehicle and mobile equipment coating operations subject to Section 3.04 of Regulation II;

(K) Flexographic and rotogravure printing facilities subject to Section 3.05 of Regulation II;

(L) Polyester, vinylester, gelcoat, and resin operations subject to Section 3.08 of Regulation II;

(M) Aerospace component coating operations subject to Section 3.09 of Regulation II;

(N) Coatings and ink manufacturing subject to Section 3.11 of Regulation II;

(O) Dry cleaners subject to Section 3.03 of Regulation III;

(P) Solvent metal cleaners subject to Section 3.05 of Regulation III; or

(Q) Ethylene oxide sterilizers subject to Section 3.07 of Regulation III;

(5) Sources with any of the following gas or odor control equipment having a rated capacity of greater than or equal to 200 cfm (≥4" diameter inlet):

(A) Activated carbon adsorption;

(B) Afterburner;

(C) Barometric condenser;

(D) Biofilter;

(E) Catalytic afterburner;

(F) Catalytic oxidizer;

(G) Chemical oxidation;

(H) Condenser;

(I) Dry sorbent injection;

(J) Flaring;

(K) Non-selective catalytic reduction;

(L) Refrigerated condenser;

(M) Selective catalytic reduction; or

(N) Wet scrubber;

(6) Sources with any of the following particulate control equipment having a rated capacity of greater than or equal to 2,000 cfm (≥10" diameter inlet):

(A) Baghouse;

(B) Demister;

(C) Electrostatic precipitator;

(D) HEPA (high efficiency particulate air) filter;

(E) HVAF (high velocity air filter);

(F) Mat or panel filter;

(G) Mist eliminator;

(H) Multiple cyclones;

(I) Rotoclone;

(J) Screen;

(K) Venturi scrubber;

(L) Water curtain; or

(M) Wet electrostatic precipitator;

(7) Sources with a single cyclone having a rated capacity of greater than or equal to 20,000 cfm (≥27" diameter inlet);

(8) Sources with any of the following equipment:

(A) Asphalt batch plants;

(B) Burn-off ovens;

(C) Coffee roasters;

(D) Commercial composting with raw materials from off-site;

(E) Commercial smokehouses with odor control equipment;

(F) Concrete batch plants (ready-mix concrete);

(G) Galvanizing;

(H) Iron or steel foundries;

(I) Microchip or printed circuit board manufacturing;

(J) Rendering plants;

(K) Rock crushers or concrete crushers;

(L) Sewage treatment plants with odor control equipment;

(M) Shipyards;

(N) Steel mills; or

(O) Wood preserving lines or retorts; and

(9) Sources with equipment (or control equipment) that has been determined by the Control Officer to warrant registration through review of a Notice of Construction application under Section 6.03(a) or a Notification under Section 6.03(b) of this regulation, due to the amount and nature of air contaminants produced, or the potential to contribute to air pollution, and with special reference to effects on health, economic and social factors, and physical effects on property.

(b) ~~((a))~~ The ~~((registration))~~ requirements of this article ~~((do))~~ shall not apply to:

(1) ~~((m))~~ Motor vehicles;

(2) ~~((n))~~ Nonroad engines or nonroad vehicles as defined in Section 216 of the federal Clean Air Act;

(3) ~~((s))~~ Sources that require an operating permit under Article 7 of this regulation;

(4) ~~((spray-coating operations exempt under Section 9.16(b) of this regulation))~~ Solid fuel burning devices subject to Article 13 of this regulation; or

(5) ((a))Any source, including any listed in Sections 5.03((b)below)) (a)(4) through 5.03 (a)(9) of this regulation, that has been determined through review by the Control Officer not to warrant registration, due to the amount and nature of air contaminants produced or the potential to contribute to air pollution, and with special reference to effects on health, economic and social factors, and physical effects on property.

(c) ((b)) It shall be unlawful for any person to cause or allow the operation of any source ((required to register under Section 5.03)) subject to registration under this section, unless it ((conforms to)) meets all the requirements of Article 5 of this regulation. ((Except as provided in Section 5.03(a); the owner or operator of each of the following stationary air contaminant sources shall register the source with the Agency by paying the annual fee required by Section 5.07 and submitting any reports required by Section 5.05.

(1) Any category of stationary sources to which a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart S (Primary Aluminum Reduction Plants), BB (Kraft Pulp Mills), or AAA (New Residential Wood Heaters), applies;

(2) Any source category subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP) under 40 CFR Part 61, other than Subpart M (asbestos on roadways; asbestos demolition or renovation activities; or asbestos spraying); or 40 CFR Part 63;

(3) Any source that emits any of the following pollutants at a rate of emission equal to or greater than any one of the following rates (tons/year):

carbon monoxide	25
nitrogen oxides	25
sulfur dioxide	25
particulate matter (PM10).....	25
particulate matter (PM2.5).....	25
volatile organic compounds (VOC).....	25
facility combined total of all toxic air contaminants (TAC)	6
any single toxic air contaminant (TAC)	2

(4) Any source that has equipment or control equipment, with an approved Notice of Construction under Article 6 of Regulation I;

(5) Any source that has been determined through review by the Control Officer to warrant registration, due to the amount and nature of air contaminants produced, or the potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property;

(6) Any source that has elected to opt out of the operating permit program by limiting its potential to emit (synthetic minor) or is required to report periodically to demonstrate nonapplicability to EPA requirements under Sections 111 or 112 of the federal Clean Air Act;

(7) Other sources, such as:
aerosol can filling facilities;
agricultural chemical facilities engaging in the manufacturing of liquid or dry fertilizers or pesticides;

- ~~agricultural drying and dehydrating operations;~~
- ~~alumina processing;~~
- ~~ammonium sulfate manufacturing plants;~~
- ~~asphalt and asphalt products production facilities;~~
- ~~automobile or light duty truck surface coating operations;~~
- ~~baker's yeast manufacturing;~~
- ~~brick and clay manufacturing plants, including tiles and ceramics;~~
- ~~cattle feedlots with operational facilities that have an inventory of 1,000 or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season;~~
- ~~chemical manufacturing plants;~~
- ~~coal preparation plants;~~
- ~~coffee roasting facilities;~~
- ~~composting operations, including commercial, industrial and municipal, but exempting agricultural and residential composting activities;~~
- ~~concrete product manufacturers and ready mix and pre-mix concrete plants;~~
- ~~crematoria or animal carcass incinerators;~~
- ~~dry cleaning plants;~~
- ~~ethylene dichloride, polyvinyl chloride, or vinyl chloride plants;~~
- ~~explosives production;~~
- ~~flexible polyurethane foam production;~~
- ~~flexible vinyl and urethane coating and printing operations;~~
- ~~gasoline stations, bulk gasoline plants, and gasoline loading terminals;~~
- ~~gecoat, polyester, resin, or vinyl ester coating manufacturing operations at commercial or industrial facilities;~~
- ~~glass manufacturing plants;~~
- ~~grain, seed, animal feed, legume, and flour processing operations and handling facilities;~~
- ~~hazardous waste treatment and disposal facilities;~~
- ~~ink manufacturers;~~
- ~~insulation fiber manufacturers;~~
- ~~landfills, active and inactive, including covers, gas collection systems, or flares;~~
- ~~lead acid battery manufacturing plants;~~
- ~~lime manufacturing plants;~~
- ~~metal casting facilities and foundries, ferrous and non-ferrous;~~
- ~~metal plating and anodizing operations;~~
- ~~metallic and nonmetallic mineral processing plants, including rock crushing plants and sand and gravel operations;~~
- ~~metallurgical processing plants;~~
- ~~mills such as lumber, plywood, shake, shingle, wood chip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;~~
- ~~mineral wool production;~~
- ~~mineralogical processing plants;~~
- ~~municipal waste combustors;~~
- ~~nitric acid plants;~~
- ~~paper manufacturers, except Kraft and sulfite pulp mills;~~
- ~~petroleum refineries;~~

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pharmaceuticals production;
 plastics and fiberglass product fabrication facilities;
 pneumatic materials conveying operations and industrial house keeping vacuuming systems that exhaust more than 1,000 acfm to the atmosphere;
 portland cement plants;
 primary copper smelters, lead smelters, magnesium refining and zinc smelters, but excluding primary aluminum plants;
 rendering plants;
 semiconductor manufacturing;
 shipbuilding and ship repair (surface coating);
 soil vapor extraction (active), thermal soil contaminant desorption, or groundwater air stripping remediation projects;
 sulfuric acid plants;
 surface coating manufacturers;
 surface spray coating operations, including automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper, and other substrates;
 synthetic fiber production facilities;
 synthetic organic chemical manufacturing industries;
 tire recapping facilities;
 vegetable oil production;
 wastewater treatment plants; or
 wood treatment.)

(d) An exemption from new source review under Article 6 of this regulation shall not be construed as an exemption from registration under this article. In addition, an exemption from registration under this article shall not be construed as an exemption from any other provision of Regulation I, II, or III.

AMENDATORY SECTION

REGULATION I SECTION 5.05 ((GENERAL REPORTING REQUIREMENTS FOR)) REGISTRATION REQUIREMENTS

(a) ~~((General-))~~ The owner or operator of ~~((an air contaminant))~~ a source ~~((for which))~~ requiring registration ~~((is required by))~~ under Section 5.03 of this regulation ~~((;))~~ shall make reports containing information as required by the Agency concerning location, size, and height of contaminant outlets, processes employed, nature and quantity of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

~~((b) Registration Form. Registration information shall be provided on forms supplied by the Agency and shall be completed and returned within the time specified on the form.~~

~~((c) Reporting Responsibility. The owner, operator, or a designated representative shall sign Agency registration and reporting forms for each source.))~~ The owner or operator ~~((of the source))~~ shall be responsible for obtaining the proper forms from the Agency, notifying the Agency of ~~((the))~~ its existence ~~((of the source))~~ (including changes in its ownership or name), and for the accuracy, completeness, and timely submittal of all registration reports ~~((ing information and any accompanying))~~ and fees.

~~((d) Emission Reporting. An emission report shall be required from the owner or operator of a source requiring reg-~~

~~istration, listing those air contaminants emitted during the previous calendar year that equal or exceed the following (tons/year):~~

carbon monoxide (CO) emissions	25.0
facility combined total of all hazardous air pollutant (HAP) emissions.....	6.0
any single hazardous air pollutant (HAP) emission	2.0
nitrogen oxide (NO _x) emissions	25.0
particulate matter (PM ₁₀) emissions.....	25.0
particulate matter (PM _{2.5}) emissions	25.0
sulfur oxide (SO _x) emissions	25.0
volatile organic compounds (VOC) emissions....	25.0

~~Annual emission rates shall be reported to the nearest whole tons per year for only those air contaminants that equal or exceed the thresholds above.))~~

(b) The owner or operator of a source requiring registration under Section 5.03 of this regulation shall submit a report by June 30th of each year, listing the emissions of those air contaminants emitted during the previous calendar year that equaled or exceeded:

(1) 2.50 tons of any single hazardous air pollutant (HAP);

(2) 6.25 tons of total hazardous air pollutants (HAP); or

(3) 25.0 tons of carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter (PM_{2.5} or PM₁₀), sulfur oxides (SO_x), or volatile organic compounds (VOC).

~~((e) Operation and Maintenance Plan. Owners or operators of air contaminant sources subject to Section 5.03 above))~~ The owner or operator of a registered source shall develop and implement an operation and maintenance plan to ~~((assure))~~ ensure continuous compliance with Regulations I, II, and III. A copy of the plan shall be filed with the Control Officer upon request. The plan shall reflect good industrial practice and shall include, but not be limited to, the following:

(1) Periodic inspection of all equipment and control equipment;

(2) Monitoring and recording of equipment and control equipment performance;

(3) Prompt repair of any defective equipment or control equipment;

(4) Procedures for start up, shut down, and normal operation;

(5) The control measures to be employed to ~~((assure))~~ ensure compliance with Section 9.15 of ~~((Regulation I))~~ this regulation; and

(6) A record of all actions required by the plan.

The plan shall be reviewed by the source owner or operator at least annually and updated to reflect any changes in good industrial practice.

~~((f) Removal from Registration Program. Continued payment of the annual registration fee to the Agency maintains the registration of the source with the Agency, as well as the status of the source as an operating facility. The Agency shall remove a source from the registration program if a registration fee has not been paid within 90 days of the date of the original fee invoice, or upon written request from the~~

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owner or operator of the source. It shall be unlawful for any person to operate a source that has been removed from the registration program, unless the owner or operator has submitted and received an approval for a "Notice of Construction and Application for Approval", in compliance with Article 6.

(g) Report of Change of Ownership and Fee.

(1) A new owner of a registered source shall report in writing any change of ownership to the Agency within 45 days of such a change, and

(2) Pay a fee of \$100.00

AMENDATORY SECTION

REGULATION I SECTION 5.07 ANNUAL REGISTRATION FEES

(a) The Agency shall assess annual fees as set forth in Section 5.07(c) ((below)) of this regulation for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the program, which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program. Payment of these fees by the owner or operator of a source shall maintain its active registration status (even if it is not actively operating). ((Registration fees do not apply to sources subject to Article 7 of Regulation I-))

(b) Upon assessment by the Agency, registration fees are due and payable within 45 days of the date of the invoice. They shall be deemed delinquent if not fully paid within 45 days of the date of the invoice and shall be subject to an additional delinquent fee equal to 25% of the original fee, not to exceed \$1,000. Persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than 90 days late with such payments may be subject to a penalty equal to 3 times the amount of the original fee owed (in addition to other penalties provided by chapter 70.94 RCW). ((In accordance with Section 5.05(f), sources that have not paid their fee within 90 days of the date of the invoice shall be removed from the registration program.

(c) Annual registration fees are assessed either by the emission reporting thresholds or, if below emission thresholds, by the primary North American Industry Classification System (NAICS) codes (North American Industry Classification System Manual, U.S. Executive Office of the President, Office of Management and Budget, 1997):

(1) Emission reporting sources under Section 5.05(d) that equal or exceed any of the emission thresholds in that paragraph shall be charged an annual registration fee of \$1,802.50 plus an additional emission rate fee of:

- \$23 for each ton of CO reported in the previous calendar year, and
- \$46 for each ton of NOx reported in the previous calendar year, and
- \$46 for each ton of PM10 reported in the previous calendar year, and
- \$46 for each ton of SOx reported in the previous calendar year, and
- \$46 for each ton of VOC reported in the previous calendar year, and
- \$46 for each ton of HAP reported in the previous calendar year.

(2) Emission reporting sources under Section 5.05(d) that equal or exceed twice any of the emission thresholds in that paragraph shall be charged the annual registration fee of \$3,605 plus an additional emission rate fee of:

- \$23 for each ton of CO reported in the previous calendar year, and
- \$46 for each ton of NOx reported in the previous calendar year, and
- \$46 for each ton of PM10 reported in the previous calendar year, and
- \$46 for each ton of SOx reported in the previous calendar year, and
- \$46 for each ton of VOC reported in the previous calendar year, and
- \$46 for each ton of HAP reported in the previous calendar year.

(3) Automobile body repair and painting (NAICS = 811121) facilities that qualified for the EnviroStar rebate in 2002 \$51.50

(4) Perchloroethylene dry cleaning plants, except rug cleaning (NAICS = 812322) vented \$515 unvented \$51.50

(5) Gasoline service stations with gasoline annual throughput during the last calendar year (as certified at the time of annual fee payment) of:

- (i) more than 6,000,000 gallons subject to Section 5.07 (e)(1) above
- (ii) 3,600,001 to 6,000,000 gallons \$1,030
- (iii) 1,200,001 to 3,600,000 gallons \$618
- (iv) 840,001 to 1,200,000 gallons \$309
- (v) 200,000 to 840,000 gallons \$206
- (vi) less than 200,000 gallons \$103

(6) Except as provided in Section 5.07 (e)(8), sources requiring registration under Section 5.03 in the following NAICS codes, or as subsequently assigned to Section 5.07 (e)(6) by the Control Officer, shall be charged an annual registration fee of \$1,648:

- NAICSNAICS Description
- 212312 Crushed and Broken Limestone Mining and Quarrying
- 212319 Other Crushed and Broken Stone Mining and Quarrying
- 212321 Construction Sand and Gravel Mining
- 212322 Industrial Sand Mining
- 221122 Electric Power Distribution
- 221320 Sewage Treatment Facilities
- 234110 Highway and Street Construction

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- 311111 Dog and Cat Food Manufacturing
- 311119 Other Animal Food Manufacturing
- 311612 Meat Processed from Carcasses
- 311613 Rendering and Meat Byproduct Processing
- 311999 All Other Miscellaneous Food Manufacturing
- 321114 Wood Preservation
- 324121 Asphalt Paving Mixture and Block Manufacturing
- 324122 Asphalt Shingle and Coating Materials Manufacturing
- 325311 Nitrogenous Fertilizer Manufacturing
- 325314 Fertilizer (Mixing Only) Manufacturing
- 325412 Pharmaceutical Preparation Manufacturing
- 325612 Polish and Other Sanitation Good Manufacturing
- 325910 Printing Ink Manufacturing
- 326199 All Other Plastics Product Manufacturing
- 326291 Rubber Product Manufacturing for Mechanical Use
- 327211 Flat Glass Manufacturing
- 327310 Cement Manufacturing
- 327320 Ready-Mix Concrete Manufacturing
- 327390 Other Concrete Product Manufacturing
- 327420 Gypsum Product Manufacturing
- 327910 Abrasive Product Manufacturing
- 327992 Ground or Treated Mineral and Earth Manufacturing
- 327999 All Other Miscellaneous Nonmetallic Mineral Product Manufacturing
- 331111 Iron and Steel Mills
- 331222 Steel Wire Drawing
- 331312 Primary Aluminum Production
- 331492 Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum)
- 331511 Iron Foundries
- 331512 Steel Investment Foundries
- 331513 Steel Foundries (except Investment)
- 331524 Aluminum Foundries (except Die-Casting)
- 331525 Copper Foundries (except Die-Casting)
- 331528 Other Nonferrous Foundries (except Die-Casting)
- 332811 Metal Heat Treating
- 332812 Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers
- 332813 Electroplating, Plating, Polishing, Anodizing, and Coloring
- 333414 Heating Equipment (except Warm Air Furnaces) Manufacturing
- 333999 All Other Miscellaneous General Purpose Machinery Manufacturing
- 334412 Bare Printed Circuit Board Manufacturing
- 334413 Semiconductor and Related Device Manufacturing
- 334418 Printed Circuit Assembly (Electronic Assembly) Manufacturing
- 335129 Other Lighting Equipment Manufacturing
- 335312 Motor and Generator Manufacturing
- 335911 Storage Battery Manufacturing
- 336411 Aircraft Manufacturing

- 336413 Other Aircraft Parts and Auxiliary Equipment Manufacturing
 - 336611 Ship Building and Repairing
 - 422510 Grain and Field Bean Wholesalers
 - 422710 Petroleum Bulk Stations and Terminals
 - 422720 Petroleum and Petroleum Products Wholesalers (except Bulk Stations and Terminals)
 - 481111 Scheduled Passenger Air Transportation
 - 486910 Pipeline Transportation of Refined Petroleum Products
 - 488190 Other Support Activities for Air Transportation
 - 488210 Support Activities for Rail Transportation
 - 488490 Other Support Activities for Road Transportation
 - 562111 Solid Waste Collection
 - 622110 General Medical and Surgical Hospitals
 - 622210 Psychiatric and Substance Abuse Hospitals
 - 622310 Specialty (except Psychiatric and Substance Abuse) Hospitals
 - 812210 Funeral Homes and Funeral Services
 - 812220 Cemeteries and Crematories
 - 813910 Business Associations
 - 922140 Correctional Institutions
- (7) Except as provided in Section 5.07 (e)(8), all other sources requiring registration under Section 5.03 and not listed in Sections 5.07 (e)(1) through 5.07 (e)(6) shall be charged an annual registration fee of \$824.
- (8) All sources required to be registered by Sections 5.07 (e)(6) and 5.07 (e)(7), except sources with equipment subject to Section 6.11 of Regulation I or Section 2.02 of Regulation III, that certify (using the procedures in WAC 296-27-00103: Partial Exemption for Employers With 10 or Fewer Employees) they did not employ more than 10 persons at any time during the previous calendar year, shall be charged an annual registration fee of \$412.)
- (c) Except as specified in Section 5.07 (d) and (e) of this regulation, registered sources shall be assessed a fee of \$850, plus the following fees:
- (1) Sources subject to a federal emission standard as specified in Section 5.03 (a)(1) of this regulation shall be assessed \$1,750 per subpart of 40 CFR Parts 60-63;
 - (2) Sources subject to a federally enforceable emission limitation as specified in Section 5.03 (a)(2) or meeting the emission thresholds specified in Section 5.03 (a)(3) of this regulation shall be assessed \$2,000; and
 - (3) Sources subject to the emission reporting requirements under Section 5.05(b) of this regulation shall be assessed \$23 for each ton of CO and \$46 for each ton of NO_x, PM₁₀, SO_x, HAP, and VOC, based on the emissions reported during the previous calendar year.
- (d) Gasoline dispensing facilities shall be assessed the following fees based on their gasoline throughput during the previous calendar year (as certified at the time of payment):
- | | |
|------------------------------------|----------|
| (1) More than 6,000,000 gallons | \$2,000; |
| (2) 3,600,001 to 6,000,000 gallons | \$1,000; |
| (3) 1,200,001 to 3,600,000 gallons | \$750; |
| (4) 840,001 to 1,200,000 gallons | \$500; |
| (5) 200,001 to 840,000 gallons | \$250. |

(e) The following registered sources shall be assessed an annual registration fee of \$100, provided that they meet no other criteria listed in Section 5.03(a) of this regulation:

(1) Sources with spray-coating operations subject to Section 9.16 of this regulation that use no more than 4,000 gallons per year of total coatings and solvents;

(2) Gasoline dispensing facilities subject to Section 2.07 of Regulation II with gasoline annual throughput during the previous calendar year (as certified at the time of payment) of no more than 200,000 gallons;

(3) Motor vehicle and mobile equipment coating operations subject to Section 3.04 of Regulation II; and

(4) Unvented dry cleaners subject to Section 3.03 of Regulation III.

WSR 04-14-026
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 29, 2004, 12:14 p.m., effective September 1, 2004]

Effective Date of Rule: September 1, 2004.

Purpose: The department has rewritten and clarified requirements relating to trade secrets. This made the trade secret requirements easy to read and understand, making them more useful for employers. Trade secret requirements have been moved from chapter 296-62 WAC, General occupational health standards, to a new chapter, chapter 296-816 WAC, Protecting trade secrets.

Citation of Existing Rules Affected by this Order: Amending WAC 296-62-05305.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Adopted under notice filed as WSR 04-07-159 on March 23, 2004.

Changes Other than Editing from Proposed to Adopted Version: **CHANGES TO THE RULES** (proposed rule versus rule actually adopted):

WAC 296-816-20015 Respond to requests for trade secret information in nonemergency situations.

- Replace "trade secret information" with "specific chemical identity."
- Clarified the language in this section to:
 - "Provide the specific chemical identity in nonemergency situations when a written request by a health professional, employee, or designated representative, includes the following:
 - The procedures that will be used to keep the information confidential.
 - A written confidentiality agreement between the parties that says
 - The information will not be used for anything other than the health needs stated
 - The parties agree that the information will not be released to anyone else, other than WISHA, according to the terms of the agreement."

WAC 296-816-20020 Provide trade secret information when requested by WISHA.

- Replace "trade secret information" with "specific chemical identity."
- We will add language to the note for information. Wording will read as follows: "WISHA will review the denial and determine if it meets the requirements of this chapter, such as whether:
 - It is a bona fide trade secret.
 - There is a medical or occupational health need for the information.
 - Adequate means are in place to protect the confidentiality of the information."

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 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 7, 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 7, Amended 1, Repealed 0.

Date Adopted: June 29, 2004.

Paul Trause
 Director

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-62-05305 Meet certain conditions if you withhold trade secret information.

Note: The requirements in WAC 296-62-05305 through 296-62-05325 apply only to agriculture. The requirements for all other industries relating to trade secrets have been moved to chapter 296-816 WAC, Protecting trade secrets.

You may withhold the specific chemical identity, including the chemical name and other specific identification of a toxic substance or hazardous chemical, from a disclosable record or a material safety data sheet if you meet each of the following conditions:

You:

- Can support the claim that the information withheld is a trade secret.
- Disclose all other available information about the properties and effects of the toxic substance.
- Disclose the information in the material safety data sheet about the properties and effects of the hazardous chemical.
- Inform the person requesting the information, or the material safety data sheet states that the specific chemical identity is being withheld as a trade secret.

- Make available the specific chemical identity to health professionals, employees, and their designated representatives according to the provisions of this rule.

Nothing in this rule hinders an employer from deleting from records requested by a health professional, employee, or designated representative any trade secret data which discloses manufacturing processes, or discloses the percentage of a chemical substance in a mixture.

You must notify the health professional, employee, or designated representative requesting records that information about the trade has been deleted from the records.

If deleting trade secret information from a record substantially impairs evaluation of the location or the time when exposure to a toxic substance occurred, you must provide alternative information that enables the requesting party to identify where and when the exposure occurred.

NEW SECTION

WAC 296-816-100 Scope. This chapter applies to both:

- Withholding trade secret information from material safety data sheets (MSDSs) and employee exposure records;

AND

- Providing trade secret information in medical emergencies and nonemergency situations.

Definition:

Trade secrets: Any confidential information that is used in an employer's business and gives an opportunity to gain an advantage over competitors who do not know or use it. It can be a:

- Formula.
- Pattern.
- Process.
- Device.
- Information.
- Collection of information.

NEW SECTION

WAC 296-816-200 Protecting trade secrets.

Your responsibility:

To meet requirements that apply to your workplace when withholding or providing trade secret information.

You must:

WAC 296-816-20005

Indicate when trade secret information has been withheld.

WAC 296-816-20010

Provide trade secret information in a medical emergency.

WAC 296-816-20015

Provide trade secret information in nonemergency situations.

WAC 296-816-20020

Provide trade secret information when requested by WISHA.

NEW SECTION

WAC 296-816-20005 Indicate when trade secret information has been withheld.

You must:

- Indicate clearly in the MSDS or employee exposure records that trade secret information has been withheld.

NEW SECTION

WAC 296-816-20010 Provide trade secret information in a medical emergency.

You must:

- Immediately provide the specific chemical identity to the treating physician or nurse when **they determine:**

- That a medical emergency exists;

AND

- The specific chemical identity is necessary to treat the employee involved in the medical emergency.

Note:

- You may require a written statement of need and confidentiality agreement from the treating physician or nurse receiving the trade secret information as soon as circumstances of the medical emergency permit.

- If the health care professional receiving the trade secret information decides that there is a need to disclose it to WISHA, they need to inform you prior to, or at the same time as, disclosure being made to WISHA.

NEW SECTION

WAC 296-816-20015 Respond to requests for trade secret information in nonemergency situations.

You must:

- Provide specific chemical identity information in non-emergency situations when a written request by a health professional, employee, or designated representative, includes the following:

- Details showing that the specific chemical identity is needed for one or more of the following occupational health reasons:

- Assessing the hazards of the chemicals employees will be exposed to.

- Conducting or assessing sampling of the workplace atmosphere to determine employee exposure levels.

- Conducting medical surveillance of exposed employees.

- Providing medical treatment to exposed employees.

- Selecting or assessing personal protective equipment for exposed employees.

- Designing or assessing engineering controls or other protective measures.

- Conducting studies to determine the health effects of exposure.

- Details showing why the following alternative information **does not** meet the needs of the requestor:

- The properties and effects of the chemical.

- Measures for controlling employees' exposure to the chemical.

- Methods of monitoring and analyzing employee exposure to the chemical.

- Methods of diagnosing and treating harmful exposures to the chemical.

- The procedures that will be used to keep the information confidential.

- A written confidentiality agreement that says:

■ The information will not be used for anything other than the stated health needs.

■ The information will not be released to anyone else, except according to the terms of the agreement or to WISHA.

Note: • If the health care professional, employee, or designated representative receiving the trade secret information decides that there is a need to disclose it to WISHA, they need to inform you prior to, or at the same time as, disclosure being made to WISHA.

You must:

• Meet all the following requirements if you decide not to provide the requested trade secret information:

– Provide a written denial within thirty days that includes the following information:

■ The reasons for denying the request.

■ Evidence that the requested information is a trade secret.

■ A detailed explanation of how alternative information may satisfy the requesting party's needs without revealing any specific chemical identity.

– Provide alternative information that allows the requesting party to identify where and when an exposure occurred, if trade secret information was deleted.

– Make available all other information about the properties and effects of the specific chemical.

Note: • If you deny a request for trade secret information, the requestor may refer the written denial, along with the original request, to WISHA for consideration. WISHA will review the denial and determine if it meets the requirements of this chapter, such as whether:

– It is a bona fide trade secret.

– There is a medical or occupational health need for the information.

– Adequate means are in place to protect the confidentiality of the information.

• WISHA may issue orders or impose additional limitations or conditions on the release of the information to make sure that the occupational health needs are met without risk to you when you show WISHA that a confidentiality agreement will not provide enough protection against harm that could be caused to your business by disclosing a specific chemical identity.

NEW SECTION

WAC 296-816-20020 Provide trade secret information when requested by WISHA.

You must:

• Provide trade secret information to WISHA when requested.

– Make any trade secret claim, including supporting documentation, by the time you provide WISHA with the information.

NEW SECTION

WAC 296-816-300 Definitions.

Designated representative:

• Any individual or organization to which an employee gives written authorization.

• A recognized or certified collective bargaining agent without regard to written employee authorization.

• The legal representative of a deceased or legally incapacitated employee.

Employee exposure record:

A record containing any of the following information:

• Environmental (workplace) monitoring or measuring of a toxic substance or harmful physical agent, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained.

• Biological monitoring results which directly assess the absorption of a toxic substance or harmful physical agent by body systems, such as the level of a chemical in the blood, urine, breath, hair, or fingernails, but not including results which assess the biological effect of a substance or agent or which assess an employee's use of alcohol or drugs.

• Material safety data sheets (MSDSs) indicating that the material may pose a hazard to human health;

OR

• In the absence of the above:

– A chemical inventory or any other record that reveals where and when used and the identity (e.g., chemical, common or trade name) of a toxic substance or harmful physical agent.

– Exposure records of other employees with past or present job duties or related working conditions.

Exposure or exposed:

The contact an employee has with a toxic substance, harmful physical agent, or oxygen deficient condition. Exposure can occur through various routes, such as inhalation, ingestion, skin contact, or skin absorption.

Health professional:

A physician, occupational health nurse, industrial hygienist, toxicologist, or epidemiologist, providing medical or other occupational health services to exposed employees.

Record:

Any item, collection, or grouping of information. Examples include:

• Paper document.

• Microfiche.

• Microfilm.

• X-ray film.

• Computer record.

Specific chemical identity:

Any information that reveals the precise chemical designation of the substance, such as:

• Chemical name;

OR

• Chemical abstracts service (CAS) registry number.

Trade secret: Any confidential information that is used in an employer's business and gives an opportunity to gain an advantage over competitors who do not know or use it. It can be a:

• Formula.

• Pattern.

• Process.

• Device.

• Information.

• Collection of information.

WSR 04-14-028
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 29, 2004, 12:20 p.m., effective January 1, 2005]

Effective Date of Rule: January 1, 2005.

Purpose: This rule making is part of our four-year plan to rewrite for clarity all of our general occupational safety and health rules. Machine guarding requirements located in chapters 296-24, 296-78, and 296-302 WAC were reviewed to identify unnecessary design requirements, outdated terminology, incorporate necessary policies and requirements, rewriting and reorganizing for clarity and consolidate into one rule, chapter 296-806 WAC. Also, several references were updated as a result of this being a new chapter. See Reviser's Note below.

Citation of Existing Rules Affected by this Order: See Reviser's Note below.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Adopted under notice filed as WSR 04-03-085 on January 20, 2004.

Changes Other than Editing from Proposed to Adopted Version: See Reviser's Note below.

A final cost-benefit analysis is available by contacting Trista Zugel, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504, phone (360) 902-6805, fax (360) 902-4202, e-mail zugy235@lni.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 279, Amended 27, Repealed 130.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 279, Amended 27, Repealed 130.

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 279, Amended 27, Repealed 130.

Date Adopted: June 29, 2004.

Paul Trause
Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 04-16 issue of the Register.

WSR 04-14-032
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed June 29, 2004, 3:21 p.m., effective July 30, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 458-40-640 Timber excise tax—Stumpage value area (map), provides a map that identifies haul zones relative to the distance to the closest timber processing facility available to process harvested timber. These zones are used to adjust the taxable value of harvested timber. The rule has been revised to adjust haul zones affected by the closure of a facility located in eastern Washington. The haul zone for Point Roberts, which can only be reached overland though Canada, has been adjusted to recognize the increased difficulty of cross-border hauling.

Citation of Existing Rules Affected by this Order: Amending WAC 458-40-640 Timber excise tax—Stumpage value area (map).

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 84.33.096.

Other Authority: RCW 84.33.091.

Adopted under notice filed as WSR 04-10-109 on May 5, 2004.

A final cost-benefit analysis is available by contacting Gilbert Brewer, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6133, fax (360) 664-0693, e-mail gilb@dor.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 25, 2004.

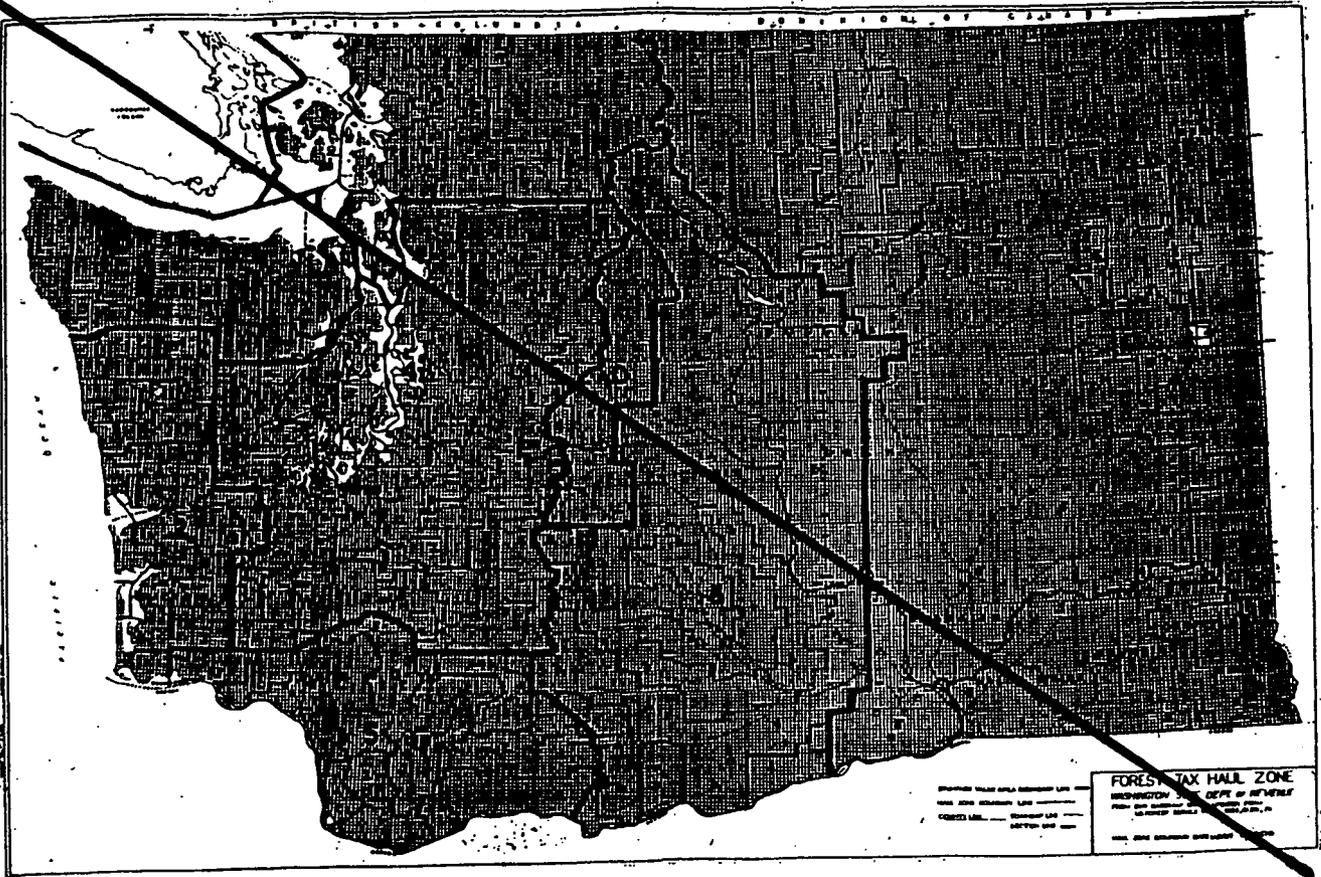
Alan R. Lynn
Rules Coordinator
Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 01-24-029, filed 11/27/01, effective 12/28/01)

WAC 458-40-640 Timber excise tax—Stumpage value area (map). The stumpage value area and hauling distance zone map contained in this rule must be used to determine the proper stumpage value table and haul zone to be used in calculating the taxable stumpage value of timber harvested from private land.

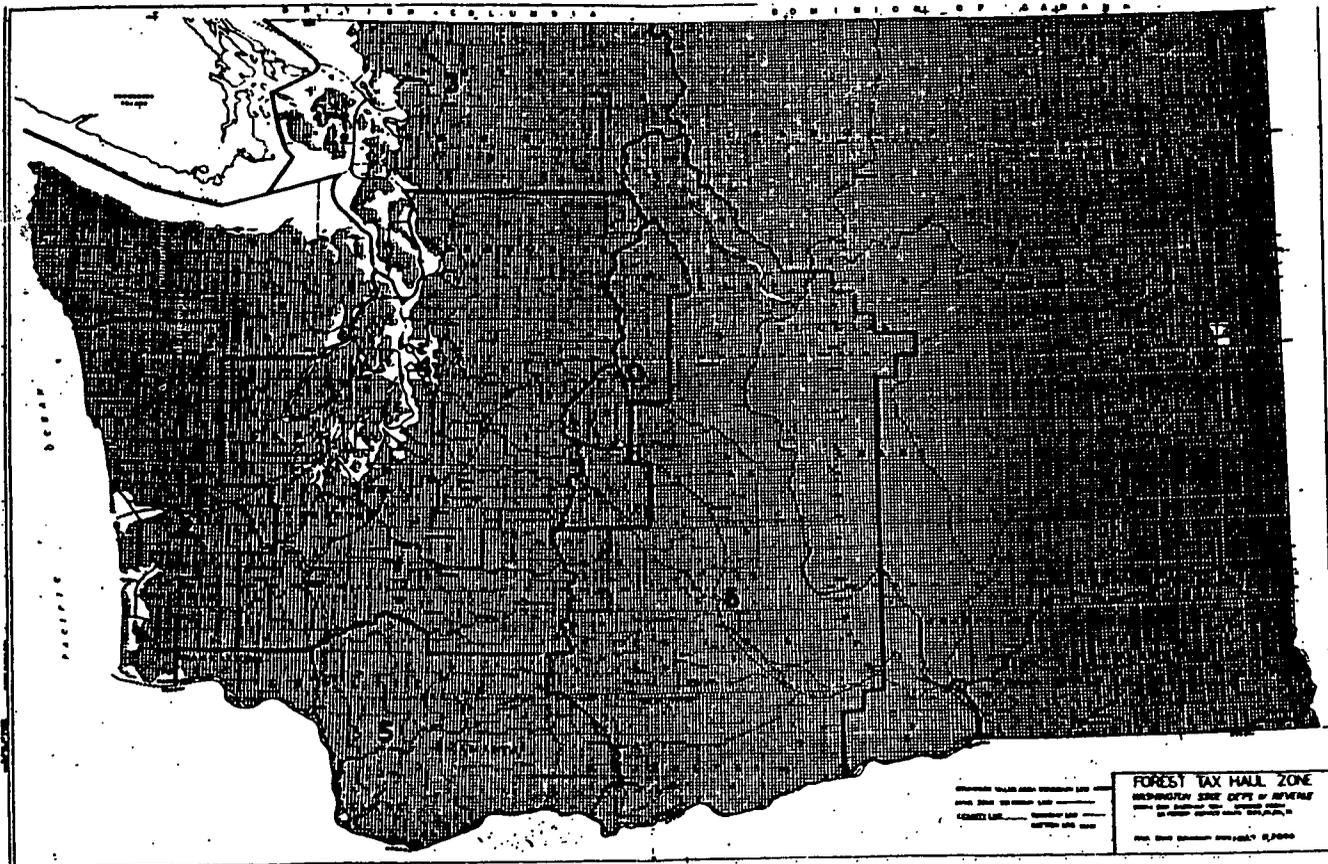
WAC 458-40-640 Stumpage value area and hauling zone—Map

Harvesters may obtain a larger scale map by writing to the Washington State Department of Revenue, Special Programs Division, Forest Tax Section, Post Office Box 47472, Olympia, Washington 98504-7472; or by calling 1-800-548-8829.



PERMANENT

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WSR 04-14-033
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed June 29, 2004, 3:22 p.m., effective July 1, 2004]

Effective Date of Rule: July 1, 2004.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The rule is required by statute (RCW 84.33.091) to be effective on July 1, 2004.

Purpose: WAC 458-40-660 Timber excise tax—Stumpage value tables, provides eight stumpage value tables representing the areas in the state in which timber is harvested. RCW 84.33.091 requires that the department publish stumpage value on a semi-annual basis. The rule is being revised to provide stumpage values for July 1 - December 31, 2004.

Citation of Existing Rules Affected by this Order: Amending WAC 458-40-660 Timber excise tax—Stumpage value tables.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 84.33.096.

Other Authority: RCW 84.33.091.

Adopted under notice filed as WSR 04-10-110 on May 5, 2004.

Changes Other than Editing from Proposed to Adopted Version: The values for small logs in Stumpage Value Table 7 are being increased by \$1 in each haul zone. These values are being increased because of additional data obtained for small logs in Stumpage Value Area 7.

A final cost-benefit analysis is available by contacting Gilbert Brewer, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6133, fax (360) 664-0693, e-mail gilb@dor.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 0, Repealed 0; or **Recently Enacted State Statutes:** New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 29, 2004.

Alan R. Lynn
Rules Coordinator
Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 04-01-125, filed 12/18/03, effective 1/1/04)

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 ((July)) December 31, 2004:

((TABLE 1—Stumpage Value Table
Stumpage Value Area 1
January 1 through July 31, 2004

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	\$465	\$458	\$451	\$444	\$437
		2	357	350	343	336	329
		3	352	345	338	331	324
		4	346	339	332	325	318
Western Redcedar(2)	RC	1	871	864	857	850	843
Western Hemlock and Other Conifer(3)	WH	1	268	261	254	247	240
		2	216	209	202	195	188
		3	216	209	202	195	188
		4	216	209	202	195	188
Red Alder	RA	1	339	332	325	318	311
		2	277	270	263	256	249
Black Cottonwood	BC	1	+	+	+	+	+
Other Hardwood	OH	1	166	159	152	145	138
Douglas Fir Poles	DFL	1	654	647	640	633	626
Western Redcedar Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood(4)	CHW	1	+	+	+	+	+

((TABLE 1—Stumpage Value Table
Stumpage Value Area 1
January 1 through July 31, 2004

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
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 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 ton.
- (5) Stumpage value per 8 lineal feet or portion thereof.
- (6) Stumpage value per lineal foot.

**TABLE 1—Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 2004**

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	\$423	\$416	\$409	\$402	\$395
		2	423	416	409	402	395
		3	365	358	351	344	337
		4	360	353	346	339	332
Western Redcedar(2)	RC	1	777	770	763	756	749
Western Hemlock and Other Conifer(3)	WH	1	303	296	289	282	275
		2	221	214	207	200	193
		3	215	208	201	194	187
		4	208	201	194	187	180
Red Alder	RA	1	368	361	354	347	340
		2	302	295	288	281	274
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	190	183	176	169	162

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TABLE 1—Stumpage Value Table
Stumpage Value Area 1
 July 1 through December 31, 2004

((TABLE 2—Stumpage Value Table
Stumpage Value Area 2
 January 1 through July 31, 2004

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 Poles	DFL	1	637	630	623	616	609
Western Redcedar Poles	RCL	1	1192	1185	1178	1171	1164
Chipwood ⁽⁴⁾	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 ⁽²⁾	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
Red Alder	RA	1	339	332	325	318	311
		2	277	270	263	256	249
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	166	159	152	145	138
Douglas-Fir Poles	DFL	1	654	647	640	633	626
Western Redcedar Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood ⁽⁴⁾	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 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 ton.

⁽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 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 ton.

⁽⁵⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁶⁾ Stumpage value per lineal foot).

((TABLE 2—Stumpage Value Table
Stumpage Value Area 2
 January 1 through July 31, 2004

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

TABLE 2—Stumpage Value Table
Stumpage Value Area 2
 July 1 through December 31, 2004

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	\$379	\$372	\$365	\$358	\$351
		2	379	372	365	358	351
		3	379	372	365	358	351
		4	318	311	304	297	290
Western Redcedar ⁽²⁾	RC	1	871	864	857	850	843
Western Hemlock and Other Conifer ⁽³⁾	WH	1	275	268	261	254	247
		2	223	216	209	202	195
		3	200	193	186	179	172
		4	190	183	176	169	162

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$500	\$493	\$486	\$479	\$472
		2	394	387	380	373	366
		3	394	387	380	373	366
		4	394	387	380	373	366

TABLE 2—Stumpage Value Table
Stumpage Value Area 2
 July 1 through December 31, 2004

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
Western Redcedar ⁽²⁾	RC	1	777	770	763	756	749
Western Hemlock and Other Conifer ⁽³⁾	WH	1	303	296	289	282	275
		2	233	226	219	212	205
		3	223	216	209	202	195
		4	209	202	195	188	181
Red Alder	RA	1	368	361	354	347	340
		2	302	295	288	281	274
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	190	183	176	169	162
Douglas-Fir Poles	DFL	1	637	630	623	616	609
Western Redcedar Poles	RCL	1	1192	1185	1178	1171	1164
Chipwood ⁽⁴⁾	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 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 ton.
 (5) Stumpage value per 8 lineal feet or portion thereof.
 (6) Stumpage value per lineal foot.

(TABLE 3—Stumpage Value Table
Stumpage Value Area 3
 January 1 through July 31, 2004

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	\$343	\$336	\$329	\$322	\$315
		2	308	301	294	287	280
		3	308	301	294	287	280
		4	308	301	294	287	280
Western Redcedar ⁽³⁾	RC	1	871	864	857	850	843
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	282	275	268	261	254
		2	230	223	216	209	202
		3	181	174	167	160	153
		4	125	118	111	104	97
Red Alder	RA	1	339	332	325	318	311
		2	277	270	263	256	249
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	166	159	152	145	138
Douglas-Fir Poles	DFL	1	654	647	640	633	626
Western Redcedar Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood ⁽⁵⁾	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 ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	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 ton.
 (6) Stumpage value per 8 lineal feet or portion thereof.
 (7) Stumpage value per lineal foot.)

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**TABLE 3—Stumpage Value Table
Stumpage Value Area 3
July 1 through December 31, 2004**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

**(TABLE 4—Stumpage Value Table
Stumpage Value Area 4
January 1 through July 31, 2004**

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	\$340	\$333	\$326	\$319	\$312
		2	327	320	313	306	299
		3	327	320	313	306	299
		4	327	320	313	306	299
Western Redcedar ⁽³⁾	RC	1	777	770	763	756	749
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	303	296	289	282	275
		2	230	223	216	209	202
		3	162	155	148	141	134
		4	112	105	98	91	84
Red Alder	RA	1	368	361	354	347	340
		2	302	295	288	281	274
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	190	183	176	169	162
Douglas-Fir Poles	DFL	1	637	630	623	616	609
Western Redcedar Poles	RCL	1	1192	1185	1178	1171	1164
Chipwood ⁽⁵⁾	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 ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	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	\$375	\$368	\$361	\$354	\$347
		2	375	368	361	354	347
		3	375	368	361	354	347
		4	326	319	312	305	298
Lodgepole Pine	LP	1	150	143	136	129	122
Ponderosa Pine	PP	1	274	267	260	253	246
		2	202	195	188	181	174
Western Redcedar ⁽³⁾	RC	1	871	864	857	850	843
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	261	254	247	240	233
		2	209	202	195	188	181
		3	203	196	189	182	175
		4	167	160	153	146	139
Red Alder	RA	1	339	332	325	318	311
		2	277	270	263	256	249
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	166	159	152	145	138
Douglas-Fir Poles	DFL	1	654	647	640	633	626
Western Redcedar Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood ⁽⁵⁾	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 ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	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 ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ 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 ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.

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TABLE 4—Stumpage Value Table
Stumpage Value Area 4
 July 1 through December 31, 2004

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	\$418	\$411	\$404	\$397	\$390
		2	395	388	381	374	367
		3	395	388	381	374	367
		4	395	388	381	374	367
Lodgepole Pine	LP	1	166	159	152	145	138
Ponderosa Pine	PP	1	256	249	242	235	228
		2	205	198	191	184	177
Western Redcedar ⁽³⁾	RC	1	777	770	763	756	749
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	303	296	289	282	275
		2	216	209	202	195	188
		3	207	200	193	186	179
		4	179	172	165	158	151
Red Alder	RA	1	368	361	354	347	340
		2	302	295	288	281	274
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	190	183	176	169	162
Douglas-Fir Poles	DFL	1	637	630	623	616	609
Western Redcedar Poles	RCL	1	1192	1185	1178	1171	1164
Chipwood ⁽⁵⁾	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 ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	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 ton.
⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽¹⁾ Stumpage value per lineal foot.

(TABLE 5—Stumpage Value Table
Stumpage Value Area 5
 January 1 through July 31, 2004

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	386	379	372	365	358
		3	345	338	331	324	317
		4	343	336	329	322	315
Lodgepole Pine	LP	1	150	143	136	129	122
Ponderosa Pine	PP	1	274	267	260	253	246
		2	202	195	188	181	174
Western Redcedar ⁽³⁾	RC	1	871	864	857	850	843
		2	248	241	234	227	220
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	196	189	182	175	168
		2	187	180	173	166	159
		3	187	180	173	166	159
		4	187	180	173	166	159
Red Alder	RA	1	339	332	325	318	311
		2	277	270	263	256	249
Black Cottonwood	BC	+	+	+	+	+	
Other Hardwood	OH	1	166	159	152	145	138
Douglas-Fir Poles	DFL	1	654	647	640	633	626
Western Redcedar Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood ⁽⁵⁾	CHW	+	+	+	+	+	
RC Shake Blocks	RCS	+	303	296	289	282	275
RC Shingle Blocks	RCF	+	121	114	107	100	93
RC & Other Posts ⁽⁶⁾	RCP	+	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	+	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	+	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."

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- (5) Stumpage value per ton.
- (6) Stumpage value per 8 lineal feet or portion thereof.
- (7) Stumpage value per lineal foot.)

TABLE 5—Stumpage Value Table
Stumpage Value Area 5
 July 1 through December 31, 2004

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	\$412	\$405	\$398	\$391	\$384
		2	412	405	398	391	384
		3	355	348	341	334	327
		4	355	348	341	334	327
Lodgepole Pine	LP	1	166	159	152	145	138
Ponderosa Pine	PP	1	256	249	242	235	228
		2	205	198	191	184	177
Western Redcedar ⁽³⁾	RC	1	777	770	763	756	749
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	303	296	289	282	275
		2	209	202	195	188	181
		3	198	191	184	177	170
		4	168	161	154	147	140
Red Alder	RA	1	368	361	354	347	340
		2	302	295	288	281	274
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	190	183	176	169	162
Douglas-Fir Poles	DFL	1	637	630	623	616	609
Western Redcedar Poles	RCL	1	1192	1185	1178	1171	1164
Chipwood ⁽²⁾	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 ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽²⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽²⁾	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 ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.

(TABLE 6—Stumpage Value Table
Stumpage Value Area 6
 January 1 through July 31, 2004

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	\$258	\$251	\$244	\$237	\$230
Lodgepole Pine	LP	1	150	143	136	129	122
Ponderosa Pine	PP	1	274	267	260	253	246
		2	202	195	188	181	174
Western Redcedar ⁽³⁾	RC	1	577	570	563	556	549
True Firs and Spruce ⁽⁴⁾	WH	1	135	128	121	114	107
Western White Pine	WP	1	308	301	294	287	280
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	577	570	563	556	549
Small Logs ⁽⁵⁾	SML	1	25	24	23	22	21
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁽⁶⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁷⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	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 ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁽⁸⁾ Stumpage value per lineal foot.)

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**TABLE 6—Stumpage Value Table
Stumpage Value Area 6
July 1 through December 31, 2004**

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	\$280	\$273	\$266	\$259	\$252
Lodgepole Pine	LP	1	166	152	152	145	138
Ponderosa Pine	PP	1	256	249	242	235	228
		2	205	198	191	184	177
Western Redcedar ⁽³⁾	RC	1	525	518	511	504	497
True Firs and Spruce ⁽⁴⁾	WH	1	161	154	147	140	133
Western White Pine	WP	1	298	291	284	277	270
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	525	518	511	504	497
Small Logs ⁽⁵⁾	SML	1	23	22	21	20	19
Chipwood ⁽²⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁽⁶⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁷⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	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 ton.
 (6) Stumpage value per 8 lineal feet or portion thereof.
 (7) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
 (8) Stumpage value per lineal foot.

**((TABLE 7—Stumpage Value Table
Stumpage Value Area 7
January 1 through July 31, 2004**

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	\$263	\$256	\$249	\$242	\$235
Lodgepole Pine	LP	1	177	170	163	156	149
Ponderosa Pine	PP	1	285	278	271	264	257
		2	227	220	213	206	199
Western Redcedar ⁽³⁾	RC	1	592	585	578	571	564
True Firs and Spruce ⁽⁴⁾	WH	1	177	170	163	156	149
Western White Pine	WP	1	315	308	301	294	287
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	592	585	578	571	564
Small Logs ⁽⁵⁾	SML	1	19	18	17	16	15
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁽⁶⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁷⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	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 ton.
 (6) Stumpage value per 8 lineal feet or portion thereof.
 (7) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
 (8) Stumpage value per lineal foot.)

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**TABLE 7—Stumpage Value Table
Stumpage Value Area 7
July 1 through December 31, 2004**

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	\$282	\$275	\$268	\$261	\$254
Lodgepole Pine	LP	1	194	187	180	173	166
Ponderosa Pine	PP	1	253	246	239	232	225
		2	214	207	200	193	186
Western Redcedar ⁽³⁾	RC	1	543	536	529	522	515
True Firs and Spruce ⁽⁴⁾	WH	1	206	199	192	185	178
Western White Pine	WP	1	310	303	296	289	282
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	543	536	529	522	515
Small Logs ⁽⁵⁾	SML	1	21	20	19	18	17
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁽⁶⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁷⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	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 ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁽⁸⁾ Stumpage value per lineal foot.

**((TABLE 8—Stumpage Value Table
Stumpage Value Area 10
January 1 through July 31, 2004**

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	\$361	\$354	\$347	\$340	\$333
		2	361	354	347	340	333
		3	361	354	347	340	333
		4	312	305	298	291	284
Lodgepole Pine	LP	1	150	143	136	129	122
Ponderosa Pine	PP	1	274	267	260	253	246
		2	202	195	188	181	174
Western Redcedar ⁽³⁾	RC	1	857	850	843	836	829
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	247	240	233	226	219
		2	195	188	181	174	167
		3	189	182	175	168	161
		4	153	146	139	132	125
Red Alder	RA	1	325	318	311	304	297
		2	263	256	249	242	235
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	152	145	138	131	124
Douglas-Fir Poles	DFL	1	640	633	626	619	612
Western Redcedar Poles	RCL	1	1177	1170	1163	1156	1149
Chipwood ⁽⁵⁾	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 ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	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 ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.

PERMANENT

TABLE 8—Stumpage Value Table
Stumpage Value Area 10
 July 1 through December 31, 2004

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	\$404	\$397	\$390	\$383	\$376
		2	381	374	367	360	353
		3	381	374	367	360	353
		4	381	374	367	360	353
Lodgepole Pine	LP	1	166	159	152	145	138
Ponderosa Pine	PP	1	256	249	242	235	228
		2	205	198	191	184	177
Western Redcedar ⁽²⁾	RC	1	763	756	749	742	735
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	289	282	275	268	261
		2	202	195	188	181	174
		3	193	186	179	172	165
		4	165	158	151	144	137
Red Alder	RA	1	354	347	340	333	326
		2	288	281	274	267	260
Black Cottonwood	BC	1	1	1	1	1	1
Other Hardwood	OH	1	176	169	162	155	148
Douglas-Fir Poles	DFL	1	623	616	609	602	595
Western Redcedar Poles	RCL	1	1178	1171	1164	1157	1150
Chipwood ⁽⁵⁾	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 ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽²⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽²⁾	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 ton.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽¹⁾ Stumpage value per lineal foot.

(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 ((January)) July 1 through ((July)) December 31, 2004:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
 ((January)) July 1 through ((July)) December 31, 2004

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
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 ((July)) December 31, 2004

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

Type of Adjustment Definition Dollar Adjustment Per Thousand Board Feet Net Scribner Scale

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.

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.

PERMANENT

WSR 04-14-037
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)

[Filed June 29, 2004, 4:05 p.m., effective July 30, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: to amend WAC 388-472-0010 What are necessary supplemental accommodation services, to correct a reference to a repealed WAC by removing the reference in subsection (8).

Citation of Existing Rules Affected by this Order: Amending WAC 388-472-0010.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.04.055, 74.04.057.

Adopted under notice filed as WSR 04-03-093 on January 20, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 28, 2004.

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-10-104, filed 5/1/01, effective 6/1/01)

WAC 388-472-0010 What are necessary supplemental accommodation services? Necessary supplemental accommodation (NSA) services are services provided to you if you have a mental, neurological, physical or sensory impairment or other problems that prevent you from getting program benefits in the same way that an unimpaired person would get them.

NSA services include but are not limited to:

- (1) Arranging for or providing help to complete and submit forms to us;
- (2) Helping you give or get the information we need to decide or continue eligibility;
- (3) Helping you request continuing benefits;
- (4) If you miss an appointment or deadline, contacting you about the reason before we reduce or end your benefits;
- (5) Explaining to you the reduction in or ending of your benefits (see WAC 388-418-0020);
- (6) If we know you have a person who helps you with your applications, notifying them when we need information or when we are about to reduce or end your benefits;

- (7) Assisting you with requests for fair hearings;
- (8) Providing protective payments if needed (according to WAC 388-265-1250); and
- (9) On request, reviewing our decision to terminate, suspend or reduce your benefits.

WSR 04-14-038
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)

[Filed June 29, 2004, 4:06 p.m., effective August 1, 2004]

Effective Date of Rule: August 1, 2004.

Purpose: Amending WAC 388-414-0001 Do I have to meet all eligibility requirements for Basic Food, to be consistent with the department's use of categorical eligibility for the Washington Basic Food program and amending the rule to be consistent with eligibility requirements for persons convicted of a drug-related felony as directed by the legislature under SB 6411 (chapter 24, Laws of 2004).

Citation of Existing Rules Affected by this Order: Amending WAC 388-414-0001.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Other Authority: SB 6411 (chapter 24, Laws of 2004).

Adopted under notice filed as WSR 04-10-098 on May 4, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 18, 2004.

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-07-139, filed 3/22/04, effective 5/1/04)

WAC 388-414-0001 Do I have to meet all eligibility requirements for Basic Food? (1) What is "categorical eligibility" (CE)?

(a) **Categorical eligibility (CE)** means that you have already met requirements for a program. If you are CE, you do not have to meet every program requirement to be eligible

for Basic Food. If your assistance unit (AU) is CE, you automatically meet the following requirements for Basic Food:

- (i) Countable resource limit under WAC 388-470-0005;
- (ii) Maximum gross monthly income under WAC 388-478-0060; and
- (iii) Maximum net monthly income under WAC 388-478-0060.

(b) Being CE does not mean that your AU is guaranteed to get Basic Food benefits. If your AU is CE:

- (i) You must still meet the other Basic Food program requirements under WAC 388-400-0040; and
- (ii) If you meet the other program requirements, we must budget your AU's income to determine the amount of benefits your AU will receive.

(2) Who is categorically eligible for Basic Food?

Your Basic Food AU is CE when:

(a) Every member of your AU gets either general assistance (GA), Alcohol and Drug Abuse Treatment Support Act (ADATSA), or Supplemental Security Income (SSI) cash benefits on their own behalf;

(b) Any member of your AU gets or is authorized to get payments from the following programs because we have determined that the entire AU benefits from someone receiving the assistance:

- (i) Temporary assistance for needy families (TANF) cash assistance;
- (ii) State family assistance (SFA); or
- (iii) Diversion cash assistance (DCA). You are CE for the month you receive DCA and the three following months as long as you have one adult relative caretaker with a dependent child in the Basic Food AU.

(c) Your AU's income that we don't exclude under WAC 388-450-0015 is not over the maximum gross monthly income under WAC 388-478-0060. If your income is not over the gross monthly income limit, we provide your AU information about department programs and referral to resources in the community.

(3) Who is not CE even if my AU meets the above criteria?

(a) Even if your AU is CE, members of your AU are not eligible for Basic Food if they:

- (i) Are not eligible because of their alien or student status;
- (ii) Were disqualified from Basic Food under WAC 388-444-0055 for failing work requirements;
- (iii) Are not eligible for failing to provide or apply for a Social Security number;
- (iv) Receive SSI in a cash-out state (state where SSI payments are increased to include the value of the client's food stamp allotment); or
- (v) Live in an institution not eligible for Basic Food under WAC 388-408-0040.

(b) If a person in your AU is not eligible for Basic Food, we do not include them as an **eligible member** of your CE AU.

(c) Your AU is not CE if:

- (i) Your AU is not eligible because of striker requirements under WAC 388-480-0001;

(ii) Your AU is ineligible for knowingly transferring countable resources in order to qualify for benefits under WAC 388-488-0010;

(iii) Your AU refused to cooperate in providing information that is needed to determine your eligibility;

(iv) The head of household for your AU failed to meet work requirements; or

(v) Anyone in your AU is disqualified because of an intentional program violation under WAC 388-446-0015(† or

~~(vi) Anyone in your AU is ineligible for Basic Food under WAC 388-442-0010 because of a conviction for a drug-related felony).~~

WSR 04-14-040

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 29, 2004, 4:10 p.m., effective July 30, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending WAC 388-400-0040 Am I eligible for benefits through the Washington Basic Food program?, 388-408-0035 Who is in my assistance unit for Basic Food? and 388-450-0140 How does the income of an ineligible assistance unit member affect my eligibility and benefits for food assistance?, to be consistent with eligibility requirements for persons convicted of a drug-related felony as directed by the legislature under ESB 6411 (chapter 54, Laws of 2004).

Citation of Existing Rules Affected by this Order: Amending WAC 388-400-0040, 388-408-0035, and 388-450-0140.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Other Authority: ESB 6411 (chapter 54, Laws of 2004).

Adopted under notice filed as WSR 04-10-096 on May 4, 2004.

Changes Other than Editing from Proposed to Adopted Version: Editorial changes only.

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 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 3, Repealed 0.

PERMANENT

Date Adopted: June 29, 2004.

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-05-028, filed 2/10/03, effective 4/1/03)

WAC 388-400-0040 Am I eligible for benefits through the Washington Basic Food program? The Washington Basic Food program (Basic Food) is a nutrition program to help low-income individuals and families buy food. This rule is a summary of the rules for Basic Food.

(1) When you apply for Basic Food, we decide who is in your assistance unit (AU) based on the requirements under WAC 388-408-0035.

(2) To be eligible for Basic Food benefits, your AU must meet the eligibility requirements of the most current version of the Food Stamp Act of 1977.

(3) To be eligible for **federal** Basic Food benefits, each AU member must:

(a) Be a U.S. citizen or national as described under WAC 388-424-0005; or

(b) Meet the alien status requirements for federal benefits described under WAC 388-424-0020.

(4) An AU member who is not eligible for federal benefits may be eligible for **state-funded** Basic Food benefits if they meet the requirements described under WAC 388-400-0045.

(5) To be eligible for **federal** or **state** Basic Food benefits, each AU member must:

(a) Be a resident of the state of Washington as required under WAC 388-468-0005;

(b) Meet the citizenship or alien status requirements of either WAC 388-424-0020 or 388-424-0025;

(c) Provide their Social Security number as required under WAC 388-476-0005;

(d) Provide proof of identity as required under WAC 388-490-0005;

(e) Participate in the food stamp employment and training program (FSE&T) as required under chapter 388-444 WAC; and

(f) Meet the eligibility criteria for strikers as described under WAC 388-480-0001.

(6) To be eligible for Basic Food, your AU must:

(a) Have countable income at or below gross and net income standards as described under WAC 388-478-0060; and

(b) Have countable resources at or below your AU's resource limit under WAC 388-470-0005.

(7) If your AU has income under the gross income standard, we deduct certain expenses from your income under WAC 388-450-0200 before we calculate your Basic Food benefits.

(8) If an eligible person in your AU is elderly or disabled, some rules may help your AU to be eligible for Basic Food or to get more Basic Food benefits. These include:

(a) Resources limits and excluding certain resources under chapter 388-470((-)WAC;

(b) An excess shelter deduction over the limit set for AUs without an elderly or disabled individual under WAC 388-450-0190;

(c) A deduction for out-of-pocket medical expenses for the elderly or disabled individual if they are over thirty-five dollars a month under WAC 388-450-0200; and

(d) Being exempt from the **gross** income standard under WAC 388-478-0060.

(9) For Basic Food, **elderly** means a person who is age sixty or older;

(10) For Basic Food, **disabled** means a person who:

(a) Gets SSI;

(b) Gets disability payments or blindness payments under Title I, II, XIV, or XVI of the Social Security Act;

(c) Gets disability retirement benefits from a state, local or federal government agency because of a disability considered permanent under section 221(i) of the Social Security Act;

(d) Gets disability benefits from the Railroad Retirement Act under sections 2 (a)(1)(iv) and (v) and:

(i) Meets Title XIX disability requirements; or

(ii) Is eligible for Medicare.

(e) Receives disability-related medical assistance under Title XIX of the Social Security Act;

(f) Is a veteran and receives disability payments based on one hundred percent disability;

(g) Is a spouse of a veteran and:

(i) Either needs an attendant or is permanently housebound; or

(ii) Has a disability under section 221(i) of the Social Security Act and is eligible for death or pension payments under Title 38 of the USC.

(11) If a person in your AU attends an institution of higher education and does not meet the requirements to be an eligible student under WAC 388-482-0005, we do not consider this person as a member of your AU.

(12) If your AU lives on or near an Indian reservation and participates in a tribal food distribution program approved by Food and Nutrition Service (FNS), your AU is not eligible for Basic Food benefits.

(13) If an AU member is ineligible for any of the following reasons, we count the ineligible person's income as described under WAC 388-450-0140:

(a) Able-bodied adults without dependents who are no longer eligible under WAC 388-444-0030;

(b) Persons (~~convicted of a drug-related felony or~~) fleeing a felony prosecution, conviction, or confinement under WAC 388-442-0010;

(c) Persons who do not attest to citizenship or alien status under WAC 388-424-0005;

(d) Persons who are ineligible aliens under WAC 388-424-0020;

(e) Persons disqualified for an intentional program violation under WAC 388-446-0015;

(f) Persons who do not provide a Social Security number when required under WAC 388-476-0005; or

(g) Persons who failed to meet work requirements under chapter 388-444 WAC.

AMENDATORY SECTION (Amending WSR 04-06-025, filed 2/23/04, effective 4/1/04)

WAC 388-408-0035 Who is in my assistance unit for Basic Food? (1) For Basic Food, a person must be in your assistance unit (AU) if they live in the same home as you and:

(a) Usually buy and fix food with you; or
 (b) You provide meals for them and they pay less than a reasonable amount for meals.

(2) If the following people live with you, they must be in your AU even if you do not usually buy and fix food together:

(a) Your spouse;
 (b) Your parents if you are under age twenty-two (even if you are married);
 (c) Your children under age twenty-two;
 (d) The parent of a child who must be in your AU;
 (e) A child under age eighteen who doesn't live with their parent unless the child:

(i) Is emancipated;
 (ii) Gets a TANF grant in their own name; or
 (iii) Is not financially dependent on an adult in the AU because they get and have control of income of at least the TANF payment standard under WAC 388-478-0020(2) before taxes or other withholdings.

(3) If you live in an institution where you may be eligible for Basic Food under WAC 388-408-0040, we decide who is in your AU as follows:

(a) If the facility is acting as your authorized representative under WAC 388-460-0015, we include you and anyone who must be in your AU under subsection (2) of this rule; or

(b) If you apply for benefits on your own, we include you, anyone who must be in your AU under subsection (2) of this rule, and other residents you choose to apply with.

(4) Anyone who must be in your AU under subsection (1) or (2) is an ineligible AU member if they:

(a) Are disqualified for an intentional program violation (IPV) under WAC 388-446-0015;

(b) Do not meet ABAWD work requirements under WAC 388-444-0030.

(c) Do not meet work requirements under WAC 388-444-0055;

(d) Do not provide a social security number under WAC 388-476-0005;

(e) Do not meet the citizenship or alien status requirements under chapter 388-424 WAC;

(f) Are fleeing a felony charge or violating a condition of parole or probation under WAC 388-442-0010(;

~~(g) Are disqualified for a drug-related felony under WAC 388-442-0010).~~

(5) If your AU has an ineligible member:

(a) We count the ineligible member's income to your AU under WAC 388-450-0140;

(b) We count all the ineligible members resources to your AU; and

(c) We do not use the ineligible member to determine your AU's size for the maximum income amount or allotment under WAC 388-478-0060.

(6) If the following people live in the same home as you, you can choose if we include them in your AU:

(a) A permanently disabled person who is age sixty or over and cannot make their own meals if the total income of

everyone else in the home (not counting the elderly and disabled person's spouse) is not more than the one hundred sixty-five percent standard under WAC 388-478-0060;

(b) A boarder. If you do not include a boarder in your AU, the boarder cannot get Basic Food benefits in a separate AU;

(c) A person placed in your home for foster care. If you do not include this person in your AU, they cannot get Basic Food benefits in a separate AU;

(d) Roomers; or

(e) Live-in attendants even if they buy and fix food with you.

(7) If someone in your AU is out of your home for a full issuance month, they are not eligible for benefits as a part of your AU.

(8) If someone received Basic Food or food stamps in another AU or another state, they cannot receive benefits in your AU for the same period of time with one exception. If you already received Basic Food or food stamp benefits:

(a) In another state, you are not eligible for Basic Food for the period of time covered by the benefits you received from the other state; or

(b) In another AU, you are not eligible for Basic Food in a different AU for the same period of time;

(c) In another AU, but you left the AU to live in a shelter for battered women and children under WAC 388-408-0045, you may be eligible to receive benefits in a separate AU.

(9) The following people who live in your home are not members of your AU. If they are eligible for Basic Food, they may be a separate AU:

(a) Someone who usually buys and fixes food separately from your AU if they are not required to be in your AU; or

(b) Someone who lives in a separate residence.

(10) A student who is ineligible for Basic Food under WAC 388-482-0005 is not a member of your AU.

AMENDATORY SECTION (Amending WSR 02-06-089, filed 3/1/02, effective 3/26/02)

WAC 388-450-0140 How does the income of an ineligible assistance unit member affect my eligibility and benefits for Basic Food ((assistance))? The department decides who must be in your assistance unit (AU) under WAC 388-408-0035. If an AU member is ineligible for Basic Food ((assistance)) under WAC 388-408-0035, this affects your AU's eligibility and benefits as follows:

(1) We do not count the ineligible member(s) to determine your AU size for the gross monthly income limit, net monthly income limit, or maximum allotment under WAC 388-478-0060.

(2) If an AU member is ineligible because they are disqualified for an intentional program violation (IPV), they failed to meet work requirements under chapter 388-444 WAC, or they are ineligible fleeing felons under WAC 388-442-0010:

(a) We count all of the ineligible member's gross income as a part of your AU's income; and

(b) We count all of the ineligible member's allowable expenses as part of your AU's expenses.

(3) If an AU member is an ineligible ABAWD under WAC 388-444-0030, is ineligible due to their alien status, failed to sign the application to state their citizenship or alien status, or refused to get or provide us a Social Security number:

(a) We allow the twenty percent earned income disregard for the ineligible member's earned income;

(b) We prorate the remaining income of the ineligible member among all the AU members by excluding the ineligible member's share and counting the remainder to the eligible members; and

(c) We divide the ineligible member's allowable expenses evenly among all members of the AU when the ineligible member has income.

WSR 04-14-043

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 29, 2004, 4:15 p.m., effective July 1, 2004]

Effective Date of Rule: July 1, 2004.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The earlier effective date is needed because of an imminent peril to the public health, safety or welfare: Clients are currently at risk of losing benefits or having overpayments created (receiving too many benefits) that would have to be paid back to the state.

Purpose: This amendment to WAC 388-450-0050 How are your cash and Basic Food benefits determined when you are participating in the community jobs (CJ) program?, will simplify the language to define what subsidized and unsubsidized income is for community jobs and how each affects Basic Food and TANF/SFA benefits. This distinction simplifies how the field budgets the income from community jobs.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0050.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.08A.340.

Adopted under notice filed as WSR 04-11-084 on May 18, 2004.

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.

Date Adopted: June 29, 2004.

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-06-095, filed 3/4/03, effective 5/1/03)

WAC 388-450-0050 How ~~((are))~~ does your participation in the community jobs (CJ) program affect your cash assistance and Basic Food benefits ~~((determined when you are participating in the community jobs (CJ) program))~~? (1) There are two different ~~((kinds of))~~ types of income in the community jobs program. They are:

(a) ~~((Classic jobs))~~ Subsidized, where your wages are ~~((subsidized by))~~ paid from TANF or SFA funds; and

(b) ~~((Career jump))~~ Unsubsidized, where your wages are paid entirely by your employer ~~((beginning with the fifth month of your employment))~~.

(2) We figure your total monthly subsidized or unsubsidized income ~~((you get from your classic jobs or career jump job))~~ by:

(a) Estimating the number of hours you, your case manager, and the CJ contractor expect you to work for the month; and

(b) Multiplying the number of hours by the federal or state minimum wage, whichever is higher.

(3) Because you are expected to participate and meet the requirements of CJ, once we determine what your total monthly income is expected to be, we do not change your TANF grant if your actual hours are more or less than anticipated.

(4) We treat the total income we expect you to get each month from your CJ position as:

(a) Earned income for cash assistance, except we do not count any of the CJ income ~~((you get in))~~ for the first month ~~((of your employment))~~ you receive your paycheck.

(b) Earned income for Basic Food ~~((if you are a career jump participant that has))~~ after you have been transferred to your employer's regular unsubsidized payroll ~~((and your wages are no longer being subsidized))~~; or

(c) Unearned income for Basic Food while you ~~((are in))~~ have subsidized ~~((employment))~~ income.

(5) If your anticipated ~~((classic jobs))~~ subsidized income is more than your grant amount, your cash grant is suspended. This means that you are still considered ~~((to be))~~ a TANF/SFA recipient, but you do not get a grant.

(a) ~~((The))~~ Your grant ~~((suspension))~~ can be suspended up to a maximum of nine months.

(b) You can keep participating in CJ even though your grant is suspended, as long as you would be eligible for a grant if we did not count your ~~((classic jobs))~~ subsidized income ~~((, you can keep participating in CJ even though your grant is suspended))~~.

(c) The months your grant is suspended do not count toward your sixty-month lifetime limit.

(6) If your unsubsidized income ~~((from career jump))~~, after we subtract half of what you have earned is greater than your grant, your TANF/SFA case will close. This happens

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because your income is over the maximum you are allowed. You will still be able to participate in the CJ program for up to a total of nine months.

(7) If your income from other sources alone, not counting CJ income makes you ineligible for a cash grant, we terminate your grant and end your participation in CJ.

WSR 04-14-052

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed June 30, 2004, 9:50 a.m., effective July 31, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 458-20-104 Small business tax relief based on income of business, explains Washington's gross receipts tax relief for small business, which is composed of a business and occupation (B&O) tax credit system (RCW 82.04.4451) and a minimum volume of business threshold for the public utility tax (RCW 82.16.040). The rule has been amended to provide that all B&O tax credits, regardless of where they are provided in Title 82 RCW, are to be applied prior to determining eligibility for and the amount of available tax credit under RCW 82.04.4451. The rule previously provided that the tax credit under RCW 82.04.4451 is to be computed after claiming any other B&O tax credits available under chapter 82.04 RCW and prior to other B&O tax credits provided in Title 82 RCW.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-104 Small business tax relief based on income of business.

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

Adopted under notice filed as WSR 04-11-024 on May 11, 2004.

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.

Date Adopted: June 30, 1004.

Alan R. Lynn
Rules Coordinator
Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 98-16-019, filed 7/27/98, effective 8/27/98)

WAC 458-20-104 Small business tax relief based on ((volume)) income of business. (1) **Introduction.** This rule explains the business and occupation (B&O) tax credit for small businesses ((B&O tax credit (-)) provided by RCW 82.04.4451((-), and)). This credit is commonly referred to as the small business B&O tax credit or small business credit (SBC). The amount of small business B&O tax credit available on a tax return can increase or decrease, depending on the reporting frequency of the account and the net B&O tax liability for that return. This rule also explains the public utility tax income exemption ((-)) provided by RCW 82.16.040((3)). The public utility tax exemption is a fixed amount, or threshold, based on the reporting frequency assigned to the account. ((The amount of small business B&O tax credit available on a return can increase or decrease, depending on the reporting frequency of the account and the net B&O tax liability for that return.)) Readers should refer to WAC 458-20-22801 (Tax reporting frequency—Forms) for an explanation of how the department of revenue (department) assigns a particular reporting frequency to each account. Readers may also want to refer to WAC 458-20-101 for an explanation of Washington's tax registration and tax reporting requirements.

This rule provides examples that identify a number of facts and then state a conclusion regarding the applicability of the income exemption for the public utility tax or small business B&O tax credit. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(2) **The public utility tax income exemption.** Persons subject to public utility tax (PUT) are exempt from payment of this tax for any reporting period in which the gross taxable amount reported under the combined total of all public utility tax classifications does not equal or exceed the maximum exemption for the assigned reporting period. The public utility tax exemption amounts are:

<u>for taxpayers reporting</u>	
<u>monthly</u>	<u>\$2,000 per month</u>
<u>for taxpayers reporting quar-</u>	
<u>terly</u>	<u>\$6,000 per quarter</u>
<u>for taxpayers reporting</u>	
<u>annually</u>	<u>\$24,000 per annum</u>

(a) What if the taxable income equals or exceeds the maximum exemption? If the taxable income for a reporting period equals or exceeds the maximum exemption, tax must be remitted on the full taxable amount.

(b) How does the exemption apply if a business does not operate for the entire tax reporting period? The public utility tax maximum exemptions apply to the entire tax reporting period, even though the business may not have operated during the entire period.

(c) Do taxable amounts for B&O tax or other taxes affect this exemption? The public utility tax exemption is not affected by taxable amounts reported in the B&O tax section or any of the other tax sections of the tax return.

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(d) Example. Taxpayer registers with the department and is assigned a quarterly tax reporting frequency. Taxpayer begins business activities on February 1st. During the two months of the first quarter that the taxpayer is in business, taxpayer's public utility gross income is seven thousand dollars. After deductions provided by chapter 82.16 RCW (Public utility tax) are computed, the total taxable amount is five thousand dollars. In this case, the taxpayer does not owe any public utility tax because the taxable amount of five thousand dollars is less than the six thousand dollar exemption threshold for quarterly taxpayers. The fact that the taxpayer was in business during only two months out of the three months in the quarter has no effect on the threshold amount. However, if there were no deductions available to the taxpayer, the taxable amount would have been seven thousand dollars. The public utility tax would then have been due on the full taxable amount of seven thousand dollars.

(3) The small business B&O tax credit. Persons subject to the B&O tax may be eligible to claim a small business B&O tax credit against the amount of B&O tax otherwise due. The small business B&O tax credit operates completely independent of the (volume) public utility tax exemption (which applies to the public utility tax) described above in subsection (2) of this rule. RCW 82.04.4451 authorizes the department (of revenue) to create a tax credit table (to be used) for use by all taxpayers when determining the amount of their small business B&O tax credit. Taxpayers (are required to) must use the tax credit table to determine the appropriate amount of their small business B&O tax credit. A tax credit table for each of the monthly, quarterly, and annual reporting frequencies is provided in subsection (7) of this rule ((see subsection (5) of this section). As required by statute, the table has been prepared in such a manner that no taxpayer owes a greater amount of tax by using the mandatory table than would have been owed by using the statutory credit formula). The statute provides that taxpayers who use the tables will not owe any more tax than if they used the statutory credit formula to determine the amount of the credit.

(a) How is the credit applied if a business does not operate during the entire tax reporting period? The small business B&O tax credit applies to the entire reporting period, even though the business may not have been operating during the entire period.

(b) ((Taxpayers who are spouses that operate)) Can a husband and wife both take the credit? Spouses operating distinct and separate businesses are each eligible for the small business B&O tax credit. For both to qualify, each must have

a separate tax reporting number and file their own business tax returns.

(c) How do I determine the amount of the credit? Taxpayers (who are) eligible for the small business B&O tax credit ((should)) must follow the steps outlined in subsection ((4)) (5) of this ((section)) rule to ((find)) determine the amount of credit available ((to them)). Taxpayers who have other B&O tax credits to apply on a tax return, in addition to the small business B&O tax credit, may ((need to refer to)) use the multiple ((business and occupation)) B&O tax credit worksheet in subsection ((3)) (4) of this ((section)) rule before determining the amount of small business B&O tax credit available ((to them)). Subsection ((5)) (7) of this ((section)) rule contains the tax credit tables ((for taxpayers with assigned reporting frequencies of either)) that correspond with the monthly, quarterly, ((or)) and annual reporting frequencies.

(d) Can I carryover the small business B&O tax credit to future tax reporting periods? Use of the small business B&O tax credit may not result in a B&O tax liability of less than zero, and thus there will be no unused credit.

(e) Do I have to report and pay retail sales tax even if I do not owe any B&O tax? Persons making retail sales must collect and pay all applicable retail sales taxes even if B&O tax is not due. There is no comparable retail sales tax exemption.

((3)) (4) Multiple business and occupation tax credit worksheet. The small business B&O tax credit should be computed after claiming any other B&O tax credits available under ((chapter 82.04 RCW (Business and occupation tax), but prior to any B&O tax credits provided under other chapters of)) Title 82 RCW (Excise taxes). ((For example,)) Examples of other B&O tax credits to be taken before computing the small business B&O tax credit include the multiple activities tax credit, high technology credit ((and ride share)), commute trip reduction credit ((should be taken before the small business credit is determined and applied, but the)), pollution control credit, and cogeneration fee credit ((should be taken only after the small business credit has been applied. Proper application of the small business credit may never result in a B&O tax liability less than zero and cannot create a carryover amount for future periods)). The following multiple B&O tax credit worksheet ((gives taxpayers an example of)) describes the process ((they should)) taxpayers must follow to ((ensure that)) apply credits ((are applied)) in the ((necessary)) appropriate order. Refer to subsection (6) of this rule for an example illustrating the use of the multiple B&O tax credit worksheet.

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MULTIPLE B&O TAX CREDIT WORKSHEET

1. Determine the total Business and Occupation (B&O) tax due from the B&O section of your ((Combined)) excise tax return. \$ _____

2. Add together the credit amounts taken for:
 - Multiple Activities Tax Credit
 - from Schedule C (if applicable), \$ _____

MULTIPLE B&O TAX CREDIT WORKSHEET

(Add any other B&O tax credits from ~~((chapter 82.04))~~ Title 82 RCW that will be applied to this return period.) + \$ _____

Total (Enter 0 if none of these credits are being taken.) ((?)) \$ _____

3. Subtract line 2 from line 1. This is the total B&O tax allowable for the Small Business Credit. \$ _____

4. Find the tax credit table which matches the reporting frequency assigned to the account, then find the total B&O tax due amount which includes your figure from item 3, above.

5. Read across to the next column. This is the amount of the Small Business Credit to be used on the ~~((Combined))~~ excise tax return. \$ _____

~~((a)) For example, ABC Manufacturing and Distributing has been assigned a quarterly reporting frequency. During one quarter, ABC owes one hundred ninety dollars in wholesaling B&O tax, plus another seventy dollars in manufacturing B&O tax, for a total B&O tax due of two hundred sixty dollars. ABC qualifies for a multiple activities tax credit (MATC) and completes a Schedule C which identifies a MATC of seventy dollars. The MATC is one of the credits from chapter 82.04 RCW and should be subtracted from the B&O tax due amount before referring to the small business tax credit table. Using the worksheet, line one for ABC is the two hundred sixty dollars of total B&O tax due. Line two is the total of B&O credits available, in this case the MATC, and equals seventy dollars. Line three directs that the seventy dollars of B&O credits should be subtracted from the original two hundred sixty dollars of B&O taxes due, which leaves one hundred ninety dollars of B&O taxes potentially available for application of the small business credit (subsections (4) and (5) of this section).~~

(d) **Step four.** Read across to the "Your Small Business Credit is" column. The figure shown is the amount of the small business B&O tax credit that can be claimed on the "Small Business B&O Tax Credit" line in the "Credits" section of the ~~((combined))~~ excise tax return.

~~((e)) For example, continue with ABC Manufacturing and Distribution which was introduced in subsection (3)(a) of this section. After completing the multiple B&O tax credit worksheet, ABC had one hundred and ninety dollars of B&O tax liability left for potential application of the small business credit. ABC refers to the quarterly small business tax credit table (subsection (5)(b) of this section) and finds the "If Your Total Business and Occupation Tax is" column. Following down that column, ABC finds the tax range of one hundred eighty six to one hundred ninety one dollars and comes over to the "Your Small Business Credit is" column which shows that a credit in the amount of twenty five dollars is available. This credit amount should be entered in the "Credits" section of ABC's combined excise tax return before calculating the total tax due for that return.~~

~~((4))~~ (5) Using the tax credit table to determine your small business B&O tax credit. The following steps explain how to use the small business B&O tax credit table:

(a) **Step one.** Determine the total B&O tax amount due from the ~~((combined))~~ excise tax return. This amount will normally be the total of the tax amounts due calculated for each classification in the B&O tax section of the ~~((combined))~~ excise tax return. However, if additional B&O tax credits will be taken on the return, refer to subsection ~~((3))~~ (4) of this ~~((section))~~ rule and the multiple B&O tax credit worksheet before going to step ~~((b))~~ two.

~~((5))~~ (6) **Example.** ABC reports quarterly. This quarter, ABC reports one hundred ninety dollars under the wholesaling classification and seventy dollars under the manufacturing classification for a total B&O tax liability of two hundred sixty dollars. ABC completes Schedule C, and determines it is entitled to a multiple activities tax credit (MATC) of seventy dollars. Using the multiple B&O tax credit worksheet, ABC enters two hundred sixty dollars on line one, enters seventy dollars on line two, and enters one hundred ninety dollars on line three (line two subtracted from line one). Line three, one hundred ninety dollars is the total B&O tax. ABC will use this amount to determine whether it is eligible for a small business B&O tax credit.

(b) **Step two.** Find the small business B&O tax credit table that matches the assigned reporting frequency (i.e., the monthly table shown in subsection ~~((5)(a))~~ (7)(b) of this ~~((section))~~ rule, the quarterly table in subsection ~~((5)(b))~~ (7)(c) of this ~~((section))~~ rule, or the annual table in subsection ~~((5)(e))~~ (7)(d) of this ~~((section))~~ rule.

(7) **Tax credit tables.** Corresponding tax credit tables for the monthly, quarterly, and annual reporting frequencies appear below. Taxpayers must use the tax credit table that corresponds to their assigned reporting frequency to determine the correct amount of small business B&O tax credit available ~~((to them))~~. ~~((The monthly, quarterly and annual reporting frequencies each have their own corresponding tax credit table. Taxpayers must be careful to use the table that matches their assigned reporting frequency.))~~

(c) **Step three.** Find the "If Your Total Business and Occupation Tax is" column of the tax credit table and come down the column until you find the range of amounts which includes the total B&O tax due figure obtained from the ~~((combined))~~ excise tax return or multiple B&O tax credit worksheet.

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(a) ~~((Small business credit table for monthly reporting frequency:))~~ **Example illustrating the use of the small business B&O tax credit tables.** The facts are the same as in the previous example in subsection (6) of this rule. After completing the multiple B&O tax credit worksheet, ABC has one hundred ninety dollars of B&O tax liability left for potential application of the small business B&O tax credit. ABC refers to the quarterly small business B&O tax credit table, which is located below in subsection (7)(c) of this rule, and finds the "If Your Total Business and Occupation Tax is" column. Following down that column, ABC finds the tax range of one hundred eighty six to one hundred ninety one dollars and comes over to the "Your Small Business Credit is" column, which shows that a credit in the amount of twenty-five dollars is available. Before calculating the total amount due for the tax return, ABC enters its small business B&O tax credit of twenty-five dollars in the "Credits" section.

(b) **Monthly filers.** Persons assigned a monthly reporting frequency must use the following table to determine if they are eligible for a small business B&O tax credit.

If Your Total Business and Occupation Tax is:		Your Small Business Credit is:
At Least	But Less Than	
\$0	\$36	The Amount of Business and Occupation Tax Due
\$36	\$41	\$35
\$41	\$46	\$30
\$46	\$51	\$25
\$51	\$56	\$20
\$56	\$61	\$15
\$61	\$66	\$10
\$66	\$71	\$5
\$71	or more	\$0

~~((b) Small business credit table for quarterly reporting frequency:))~~ (c) **Quarterly filers.** Persons assigned a quarterly reporting frequency must use the following table to determine if they are eligible for a small business B&O tax credit.

If Your Total Business and Occupation Tax is:		Your Small Business Credit is:
At least	But Less Than	
\$0	\$106	The Amount of Business and Occupation Tax Due
\$106	\$111	\$105
\$111	\$116	\$100
\$116	\$121	\$95
\$121	\$126	\$90
\$126	\$131	\$85
\$131	\$136	\$80
\$136	\$141	\$75
\$141	\$146	\$70

If Your Total Business and Occupation Tax is:		Your Small Business Credit is:
At least	But Less Than	
\$146	\$151	\$65
\$151	\$156	\$60
\$156	\$161	\$55
\$161	\$166	\$50
\$166	\$171	\$45
\$171	\$176	\$40
\$176	\$181	\$35
\$181	\$186	\$30
\$186	\$191	\$25
\$191	\$196	\$20
\$196	\$201	\$15
\$201	\$206	\$10
\$206	\$211	\$5
\$211	or more	\$0

~~((c) Small business credit table for annual reporting frequency:))~~ (d) **Annual filers.** Persons assigned an annual reporting frequency must use the following table to determine if they are eligible for a small business B&O tax credit.

If Your Total Business and Occupation Tax is:		Your Small Business Credit is:
At Least	But Less Than	
\$0	\$421	The Amount of Business and Occupation Tax Due
\$421	\$426	\$420
\$426	\$431	\$415
\$431	\$436	\$410
\$436	\$441	\$405
\$441	\$446	\$400
\$446	\$451	\$395
\$451	\$456	\$390
\$456	\$461	\$385
\$461	\$466	\$380
\$466	\$471	\$375
\$471	\$476	\$370
\$476	\$481	\$365
\$481	\$486	\$360
\$486	\$491	\$355
\$491	\$496	\$350
\$496	\$501	\$345
\$501	\$506	\$340
\$506	\$511	\$335
\$511	\$516	\$330
\$516	\$521	\$325
\$521	\$526	\$320

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If Your Total Business and Occupation Tax is:		Your Small Business Credit is:
At Least	But Less Than	
\$526	\$531	\$315
\$531	\$536	\$310
\$536	\$541	\$305
\$541	\$546	\$300
\$546	\$551	\$295
\$551	\$556	\$290
\$556	\$561	\$285
\$561	\$566	\$280
\$566	\$571	\$275
\$571	\$576	\$270
\$576	\$581	\$265
\$581	\$586	\$260
\$586	\$591	\$255
\$591	\$596	\$250
\$596	\$601	\$245
\$601	\$606	\$240
\$606	\$611	\$235
\$611	\$616	\$230
\$616	\$621	\$225
\$621	\$626	\$220
\$626	\$631	\$215
\$631	\$636	\$210
\$636	\$641	\$205
\$641	\$646	\$200
\$646	\$651	\$195
\$651	\$656	\$190
\$656	\$661	\$185
\$661	\$666	\$180
\$666	\$671	\$175
\$671	\$676	\$170
\$676	\$681	\$165
\$681	\$686	\$160
\$686	\$691	\$155
\$691	\$696	\$150
\$696	\$701	\$145
\$701	\$706	\$140
\$706	\$711	\$135
\$711	\$716	\$130
\$716	\$721	\$125
\$721	\$726	\$120
\$726	\$731	\$115
\$731	\$736	\$110
\$736	\$741	\$105
\$741	\$746	\$100

If Your Total Business and Occupation Tax is:		Your Small Business Credit is:
At Least	But Less Than	
\$746	\$751	\$95
\$751	\$756	\$90
\$756	\$761	\$85
\$761	\$766	\$80
\$766	\$771	\$75
\$771	\$776	\$70
\$776	\$781	\$65
\$781	\$786	\$60
\$786	\$791	\$55
\$791	\$796	\$50
\$796	\$801	\$45
\$801	\$806	\$40
\$806	\$811	\$35
\$811	\$816	\$30
\$816	\$821	\$25
\$821	\$826	\$20
\$826	\$831	\$15
\$831	\$836	\$10
\$836	\$841	\$5
\$841	or more	\$0

~~(((6) Retail sales tax must be reported. Persons making retail sales must collect and pay all applicable retail sales taxes even if B&O tax is not due. There is no small business tax credit or volume of business exemption for retail sales tax.~~

~~(7) The public utility tax income exemption. Persons subject to public utility tax are exempt from payment of this tax for any reporting period in which the gross taxable amount reported under the combined total of all public utility tax classifications does not equal or exceed the maximum exemption for the assigned reporting period. Effective July 1, 1996, the public utility tax exemption amounts stated in RCW 82.16.040 were increased to:~~

- Monthly reporting basis \$ 2,000 per month
- Quarterly reporting basis \$ 6,000 per quarter
- Annual reporting basis \$ 24,000 per annum

~~(a) If the taxable amount for a reporting period equals or exceeds the maximum exemption, tax must be remitted on the full taxable amount.~~

~~(b) The public utility tax maximum exemptions apply to the entire reporting period, even though the business may not have operated during the entire period.~~

~~(c) The public utility tax exemption or threshold is not affected by the amounts reported in the B&O tax section or any of the other tax sections of the combined excise tax return.~~

~~(d) For example, assume that the DEF corporation registers and starts business activities on February 1st. A quar-~~

~~terly reporting frequency is assigned to DEF by the department of revenue. During the two months of the first quarter that DEF is actively in business, DEF's public utility tax gross is seven thousand dollars, but after deductions the total taxable amount is five thousand dollars. In this case, DEF does not owe any public utility tax because the taxable amount of five thousand dollars is less than the six thousand dollar threshold for quarterly taxpayers. The fact that DEF was in business during only two months out of the three months in the quarter has no effect on the threshold amount. However, if DEF had no deductions available, the taxable amount would be seven thousand dollars and public utility tax would be due on the full taxable amount.))~~

WSR 04-14-062

PERMANENT RULES

SPOKANE COUNTY AIR

POLLUTION CONTROL AUTHORITY

[Filed July 1, 2004, 11:32 a.m., effective August 1, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amend existing Regulation I and repeal the existing Regulation II. Delete sections that no longer apply. Delete sections that are duplicative within the Regulation or within state regulations. Incorporate EPA required changes to Articles I, II, IV, and V of Regulation I. Centralize, revise and add to definitions in Article I. Correct spelling, punctuation, sentence structure, and references to other sections. Add new fees (Article X). Revise paragraph formats for consistency. Post CR-102 nonsubstantive revisions: Article II, Section 2.13E - The effective date for references to federal laws and regulations has been changed to adoption date of the regulations revisions at the recommendation of EPA. Each article's revised date has been changed to reflect the adoption date of March 4, 2004.

Citation of Existing Rules Affected by this Order: Repealing SCAPCA Regulation II; and amending SCAPCA Regulation I.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 04-01-160 on December 22, 2003.

Changes Other than Editing from Proposed to Adopted Version: Post CR-102 nonsubstantive revisions: Article II, Section 2.13E - The effective date for references to federal laws and regulations has been changed to adoption date of the regulation revisions at the recommendation of EPA. In addition, SCAPCA inadvertently included outdated versions of Sections 10.06.B.3 and 10.09.D of Article X, in its CR-102 (WSR 04-01-160) and original CR-103 (WSR 04-07-748 [04-07-048]) submissions as if these were nonamended sections. In accordance with RCW 34.05.395, the inadvertent amendments to these sections are invalidated because they did not follow the formatting required for amendments and therefore the previously adopted versions stand.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 6, Repealed 0; Federal Rules or Standards: New 1, Amended 6, Repealed 0; or

Recently Enacted State Statutes: New 3, Amended 28, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 5, Amended 67, Repealed 22.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, Amended 67, Repealed 22.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 4, 2004.

Charles E. Studer
Environmental Engineer

AMENDATORY SECTION (Amending Order Res. 04-01, filed 3/10/04)

SECTION 10.06 REGISTRATION AND OPERATING PERMIT FEES FOR AIR CONTAMINANT SOURCES

A. Each source required by Article IV, Section 4.01 to be registered, each air operating permit source, and each source required by Article V, Section 5.02 to obtain an approved Notice of Construction and Application for Approval is subject to an annual fee for each calendar year, or portion of each calendar year, during which it operates. The owner or operator shall pay the fee, pursuant to the requirements in Section 10.02. Fees received pursuant to the registration program or the operating permit program shall not exceed the actual costs of program administration.

B. The annual fee for each source shall be determined as follows:

1. For sources that are not subject to Section 10.06.B.3, 4, or 5. of this Regulation and which emit less than 5 tons per year of criteria and toxic air pollutants:

- a. a flat fee of \$160; and
- b. a \$30 fee for each stack and other emission point, not to exceed \$600; and
- c. an emission fee of \$20 per ton of each criteria and toxic air pollutant; and
- d. an additional fee of \$150 for each source which operated at least one incinerator or burn out oven during the registration period; and
- e. an additional fee of \$100 if the source is required by the Authority to submit an annual emissions inventory to the Washington Emission Data System (WEDS).

2. For sources that are not subject to Section 10.06.B.3, 4, or 5. of this Regulation and which emit 5 tons or more per year of criteria and toxic air pollutants, but less than 100 tons per year of any one criteria pollutant:

- a. a flat fee of \$215; and
- b. a \$30 fee for each stack and other emission point, not to exceed \$600; and
- c. an emission fee of \$20 per ton of each criteria and toxic air pollutant; and
- d. an additional fee of \$150 for each source which operated at least one incinerator or burn out oven during the registration period; and

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e. an additional fee of \$100 if the source is required by the Authority to submit an annual emissions inventory to the Washington Emission Data System (WEDS).

~~((3. For air operating permit sources, a share of the assessment by Ecology, pursuant to RCW 70.94.162(3), determined according to Section 10.06.D of this Regulation, plus:~~

~~a. for bulk gasoline loading terminals, Standard Industrial Classification 5171, a fee of \$11,500;~~

~~b. for secondary aluminum facilities, Standard Industrial Classification 3341, a fee of \$21,100;~~

~~c. for municipal solid waste incineration facilities, Standard Industrial Classification 4953, a fee of \$20,400;~~

~~d. for military bases, Standard Industrial Classification 9711, a fee of \$17,850; or~~

~~e. for sources not listed in a., b., c., or d. above~~

~~1) which have total annual actual emissions of less than 50 tons, a fee of \$3000;~~

~~2) which have total annual actual emissions of greater than or equal to 50 tons but less than 100 tons, a fee of \$4000; or~~

~~3) which have total actual annual emissions of 100 tons or greater, a fee of \$5000.))~~

3. RCW 70.94.162(3), determined according to Section 10.06.D of this Regulation, plus:

a. an annual base fee of \$3,000; and

b. an emission fee of \$31.11 per ton of actual emissions for the previous calendar year.

AMENDATORY SECTION (Amending Order Res. 04-01, filed 3/10/04)

SECTION 10.09 ASBESTOS FEES

Written notification, as required in Article IX, Section 9.04, shall be accompanied by the appropriate nonrefundable fee according to Section 10.09.A.

A. Notification Period and Fees

Project	Size or Type	Notification Period	Fee
Owner-Occupied, Single-Family Residence Asbestos Project (excluding demolition)	Notification Not Required	None	None
Owner-Occupied, Single-Family Residence Demolition	All	Prior Notice	\$25
All Other Demolitions with no asbestos project	All	10 Days	\$150
Asbestos Project includes demolition fee*	10-259 linear ft 48-159 square ft	3 Days	\$150
Asbestos Project includes demolition fee	260-999 linear ft 160-4,999 square ft	10 Days	\$300
Asbestos Project includes demolition fee	1,000-9,999 linear ft 5,000-49,999 square ft	10 Days	\$750
Asbestos Project includes demolition fee	> 10,000 linear ft > 50,000 square ft	10 Days	\$1,500
Emergency	9.04.C	Prior Notice**	Additional fee equal to project fee
Amendment***	9.04.B	Prior Notice	\$50
Alternate Means of Compliance (demolitions or friable asbestos-containing material)	9.07.A or C	10 Days	Additional fee equal to project fee
Alternate Means of Compliance (non-friable asbestos-containing material)	9.07.B	10 Days	Additional fee equal to project fee
Annual	9.04.A.8	Prior Notice	\$1,000

* Demolitions with asbestos projects involving less than 10 linear feet or less than 48 square feet may submit an asbestos project notification under this project category and will be eligible for the 3-day notification period.

** Except in the case where advance notice is not required pursuant to Section 9.04.C.2.

*** For an amendment where the project type or job size category is associated with a higher fee, a fee equal to the difference between the fee associated with the most recently submitted notification and the fee associated with the increased project type or job size category shall be submitted in addition to the \$50 amendment fee.

B. The Control Officer may waive the asbestos project fee and notification period, by written authorization, for disposal of unused and intact or abandoned (without the knowledge or consent of the property owner) asbestos-containing

materials. All other asbestos project and demolition requirements remain in effect.

C. Where a compliance investigation is conducted pursuant to Section 9.04 of this Regulation, the compliance investigation fee shall be equal to \$50 per hour of compliance investigation.

D. The asbestos project fee in Section 10.09.a is waived for any demolition performed in accordance with RCW 52.12.150(6), where the good faith inspection is an asbestos survey, as defined in Section 9.02.G, performed by an AHERA Building Inspector, as defined in Section 9.02.A.

E. ((D-)) Fees shall be paid without regard to whether the request(s) associated with this Section are approved or denied.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appears in the Register pursuant to the requirements of RCW 34.08.040.

PERMANENT

WSR 04-14-064

PERMANENT RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed July 2, 2004, 9:15 a.m., effective July 2, 2004]

Effective Date of Rule: July 2, 2004.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The commission is setting an early effective date for this rule under RCW 34.04.380 [34.05.380 (3)(a)] (3)(a) because there was an emergency clause in chapter 140, Laws of 2003. The requirements in this rule have been in place under emergency rules and will expire July 2, 2004.

Purpose: Adopt rules to implement chapter 140, Laws of 2003, allowing nursing assistants to accept specific delegation in an in-home care setting. These rules also adopt legislative changes allowing nursing assistants to accept more tasks when accepting specific delegation. Emergency rules currently in place are due to expire on July 2, 2004.

Citation of Existing Rules Affected by this Order: Amending WAC 246-841-405.

Statutory Authority for Adoption: RCW 18.88A.060 and chapter 140, Laws of 2003.

Adopted under notice filed as WSR 04-10-079 on May 4, 2004.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-841-405 (2)(a) and (b). Took out the words, "a copy of." The proposal would have required the nursing assistant to provide the registered nurse with a copy of their certificate of completion but would not require that they present the original certificate of completion to the registered nurse. This is inconsistent with the law as RCW 18.88A.210(3) requires the nursing assistant to present the certificate of completion to the registered nurse. The change makes the rule consistent with the law.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: July 2, 2004.

June 8, 2004

Cheryl Payseno, Chair
Nursing Care Quality
Assurance Commission

AMENDATORY SECTION (Amending WSR 96-06-029, filed 2/28/96, effective 3/30/96)

WAC 246-841-405 Nursing assistant delegation. Provision for delegation of certain tasks.

(1) Nursing assistants may perform ~~((the following))~~ tasks~~((;))~~ when delegated by a registered nurse~~((;))~~ for ~~((residents in certified community residential programs for the developmentally disabled, residents in licensed adult family homes, and to residents of licensed boarding homes contracting to provide assisted living services:~~

~~(a) Oral and topical medications and ointments;~~
~~(b) Nose, ear, eye drops, and ointments;~~
~~(c) Dressing changes and urinary catheterization using clean techniques;~~

~~(d) Suppositories, enemas, and ostomy care in established and healed condition;~~

~~(e) Blood glucose monitoring; and~~

~~(f) Gastrostomy feedings in established and healed condition)) patients in community-based care settings or in-home care settings, each as defined in RCW 18.79.260 (3)(e).~~

(2) Any nursing assistant who receives authority to perform ~~((such))~~ a delegated nursing task must, before performing any delegated task:

(a) For nursing assistants-registered, ~~((complete))~~ provide to the delegating nurse the certificate of completion of both the basic caregiver training and core delegation training as established by the department of social and health services.

(b) For nursing assistants-certified, ~~((complete))~~ provide to the delegating nurse the certificate of completion of the core delegation training as established by the department of social and health services.

(c) For all nursing assistants, comply with all applicable requirements and protocol established by the nursing care quality assurance commission in WAC 246-840-910 through ((246-840-980)) WAC 246-840-970.

(d) For all nursing assistants, meet any additional training requirements identified by the nursing care quality assurance commission. Any exceptions to any such training requirements must adhere to RCW 18.79.260 (3)(e)(v).

(3) Any nursing assistant performing a delegated nursing care task pursuant to this section, shall perform the task:

(a) Only for the specific ~~((resident))~~ patient who was the subject of the delegation;

(b) Only with the ~~((resident's))~~ patient's consent; and

(c) In compliance with all applicable requirements and protocols established by the nursing care quality assurance commission in WAC 246-840-910 through ~~((246-840-980))~~ WAC 246-840-970.

(4) A nursing assistant may consent or refuse to consent to perform a delegated nursing care task ~~((listed in subsection (1) of this section;))~~ and shall be responsible for their own actions with regard to the decision to consent or refuse to consent and the performance of the delegated nursing care task.

(5) Nursing assistants shall not accept delegation of, or perform, the following nursing care tasks:

(a) Administration of medication by injection;

(b) Sterile procedures;

(c) Central line maintenance;

(d) Acts that require nursing judgment.

PERMANENT

WSR 04-14-065

PERMANENT RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed July 2, 2004, 9:21 a.m., effective July 2, 2004]

Effective Date of Rule: July 2, 2004.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The commission is setting an early effective date for this rule under RCW 34.04.380 (3)(a) [34.05.380 (3)(a)] because there was an emergency clause in chapter 140, Laws of 2003. The requirements in this rule have been in place under emergency rules and will expire July 2, 2004.

Purpose: Adopt rules to implement chapter 140, Laws of 2003, allowing registered nurses employed by a home health or hospice agency to delegate application, instillation or insertion of medications to a nursing assistant under a plan of care and allowing delegation of specific nursing care tasks to nursing assistants in an in-home care setting. Emergency rules currently in place are due to expire on July 2, 2004.

Citation of Existing Rules Affected by this Order: Amending WAC 246-840-700, 246-840-910, 246-840-930, and 246-840-940.

Statutory Authority for Adoption: RCW 18.79.110, 18.79.260 (3)(f) and 18.88A.210, chapter 140, Laws of 2003.

Adopted under notice filed as WSR 04-10-078 on May 4, 2004.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-840-930 (8)(c) now requires the registered nurse to check for an actual certificate of completion rather than simply to assure that the course has been completed. This makes the rule consistent with RCW 18.88A.210(3) which requires the nursing assistant to present the certificate to the registered nurse.

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.

Date Adopted: July 2, 2004.

June 8, 2004

Cheryl Payseno, Chair
Nursing Care Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 02-06-117, filed 3/6/02, effective 4/6/02)

WAC 246-840-700 Standards of nursing conduct or practice. (1) The purpose of defining standards of nursing conduct or practice through WAC 246-840-700 and WAC 246-840-710 is to identify responsibilities of the professional registered nurse and the licensed practical nurse in health care settings and as provided in the Nursing Practice Act, chapter 18.79 RCW. Violation of these standards may be grounds for disciplinary action under chapter 18.130 RCW. Each individual, upon entering the practice of nursing, assumes a measure of responsibility and public trust and the corresponding obligation to adhere to the professional and ethical standards of nursing practice. The nurse shall be responsible and accountable for the quality of nursing care given to clients. This responsibility cannot be avoided by accepting the orders or directions of another person. The standards of nursing conduct or practice include, but are not limited to the following:

(2) The nursing process is defined as a systematic problem solving approach to nursing care which has the goal of facilitating an optimal level of functioning and health for the client, recognizing diversity. It consists of a series of phases: Assessment and planning, intervention and evaluation with each phase building upon the preceding phases.

(a) Registered Nurse:

Minimum standards for registered nurses include the following:

(i) Standard I Initiating the Nursing Process:

(A) Assessment and Analysis: The registered nurse initiates data collection and analysis that includes pertinent objective and subjective data regarding the health status of the clients. The registered nurse is responsible for ongoing client assessment, including assimilation of data gathered from licensed practical nurses and other members of the health care team;

(b) Licensed Practical Nurse:

Minimum standards for licensed practical nurses include the following:

(i) Standard I - Implementing the Nursing Process:

The practical nurse assists in implementing the nursing process;

(A) Assessment: The licensed practical nurse makes basic observations, gathers data and assists in identification of needs and problems relevant to the clients, collects specific data as directed, and, communicates outcomes of the data collection process in a timely fashion to the appropriate supervising person;

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(B) Nursing Diagnosis/Problem Identification:

The registered nurse uses client data and nursing scientific principles to develop nursing diagnosis and to identify client problems in order to deliver effective nursing care;

(C) Planning: The registered nurse shall plan nursing care which will assist clients and families with maintaining or restoring health and wellness or supporting a dignified death;

(D) Implementation: The registered nurse implements the plan of care by initiating nursing interventions through giving direct care and supervising other members of the care team; and

(E) Evaluation: The registered nurse evaluates the responses of individuals to nursing interventions and is responsible for the analysis and modification of the nursing care plan consistent with intended outcomes;

(ii) Standard II Delegation and Supervision: The registered nurse is accountable for the safety of clients receiving nursing service by:

(A) Delegating selected nursing functions to others in accordance with their education, credentials, and demonstrated competence as defined in WAC 246-840-010(10);

(B) Nursing Diagnosis/Problem Identification:

The licensed practical nurse provides data to assist in the development of nursing diagnoses which are central to the plan of care;

(C) Planning: The licensed practical nurse contributes to the development of approaches to meet the needs of clients and families, and, develops client care plans utilizing a standardized nursing care plan and assists in setting priorities for care;

(D) Implementation: The licensed practical nurse carries out planned approaches to client care and performs common therapeutic nursing techniques; and

(E) Evaluation: The licensed practical nurse, in collaboration with the registered nurse, assists with making adjustments in the care plan. The licensed practical nurse reports outcomes of care to the registered nurse or supervising health care provider;

(ii) Standard II Delegation and Supervision: Under direction, the practical nurse is accountable for the safety of clients receiving nursing care:

(A) The practical nurse may delegate selected nursing tasks to competent individuals in selected situations, in accordance with their education, credentials and competence as defined in WAC 246-840-010(10);

(B) Supervising others to whom he/she has delegated nursing functions as defined in WAC 246-840-010(10);

(C) Evaluating the outcomes of care provided by licensed and other paraprofessional staff; ~~((and))~~

(D) The registered nurse may delegate certain additional acts to certain individuals in community-based long-term care and in-home settings as provided by WAC 246-840-910 through ~~((246-840-980))~~ WAC 246-840-970 and WAC 246-841-405; and

(E) In a home health or hospice agency regulated under chapter 70.127 RCW, a registered nurse may delegate the application, instillation, or insertion of medications to a registered or certified nursing assistant under a plan of care pursuant to chapter 246-335 WAC;

(iii) Standard III Health Teaching. The registered nurse assesses learning needs including learning readiness for patients and families, develops plans to meet those learning needs, implements the teaching plan and evaluates the outcome.

(3) The following standards apply to registered nurses and licensed practical nurses:

(a) The registered nurse and licensed practical nurse shall communicate significant changes in the client's status to appropriate members of the health care team. This communication shall take place in a time period consistent with the client's need for care. Communication is defined as a process by which information is exchanged between individuals through a common system of speech, symbols, signs, and written communication or behaviors that serves as both a means of gathering information and of influencing the behavior, actions, attitudes, and feelings of others; and

(b) The registered nurse and licensed practical nurse shall document, on essential client records, the nursing care given and the client's response to that care; and

(B) The licensed practical nurse in delegating functions shall supervise the persons to whom the functions have been delegated;

(C) The licensed practical nurse reports outcomes of delegated nursing care tasks to the RN or supervising health care provider; and

(D) In community based long-term care and in-home settings as provided by WAC 246-840-910 through ~~((246-840-980))~~ WAC 246-840-970 and WAC 246-841-405, the practical nurse may delegate only personal care tasks to qualified care givers;

(iii) Standard III Health Teaching. The practical nurse assists in health teaching of clients and provides routine health information and instruction recognizing individual differences.

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(c) The registered nurse and licensed practical nurse act as client advocates in health maintenance and clinical care.

(4) Other responsibilities:

(a) The registered nurse and the licensed practical nurse shall have knowledge and understanding of the laws and rules regulating nursing and shall function within the legal scope of nursing practice;

(b) The registered nurse and the licensed practical nurse shall be responsible and accountable for his or her practice based upon and limited to the scope of his/her education, demonstrated competence, and nursing experience consistent with the scope of practice set forth in this document; and

(c) The registered nurse and the licensed practical nurse shall obtain instruction, supervision, and consultation as necessary before implementing new or unfamiliar techniques or procedures which are in his/her scope of practice.

(d) The registered nurse and the licensed practical nurse shall be responsible for maintaining current knowledge in his/her field of practice; and

(e) The registered nurse and the licensed practical nurse shall respect the client's right to privacy by protecting confidential information and shall not use confidential health care information for other than legitimate patient care purposes or as otherwise provided in the Health Care Information Act, chapter 70.02 RCW.

DELEGATION OF NURSING CARE TASKS IN COMMUNITY-BASED ((CARE SETTINGS)) AND IN-HOME CARE SETTINGS

AMENDATORY SECTION (Amending WSR 02-02-047, filed 12/27/01, effective 1/27/02)

WAC 246-840-910 Purpose. The purpose of this delegation protocol is to ensure that nursing care services have a consistent standard of practice upon which the public and profession may rely and to safeguard the authority of the registered nurse delegator to make independent professional decisions regarding the delegation of a nursing task. A licensed registered nurse may delegate specific nursing care tasks to nursing assistants who meet certain requirements and provide care to individuals (~~to residents in licensed adult family homes, and to residents of licensed boarding homes~~) in a community-based care setting as defined by RCW 18.79.260 (3)(e)(i) and to individuals in an in-home care setting as defined by RCW 18.79.260 (3)(e)(ii). Before delegating a task, the registered nurse delegator must determine that specific criteria described in the protocol are met and ensure that the patient is in a stable and predictable condition. Registered nurses delegating tasks are accountable to the Washington state nursing care quality assurance commission. The registered nurse delegator and nursing assistant are accountable for their own individual actions in the delegation process. No person may coerce a registered nurse into compromising patient safety by requiring the registered nurse to delegate if the registered nurse delegator determines it is inappropriate to do so. Registered nurse delegators (~~cannot~~) shall not delegate the following care tasks (~~under any circumstances~~):

(1) Administration of medications by injection (~~by intramuscular, intradermal, subcutaneous, intraosseous ((and)), intravenous, or otherwise~~).

(2) Sterile procedures.

(3) Central line maintenance.

(4) Acts that require nursing judgment.

AMENDATORY SECTION (Amending WSR 02-02-047, filed 12/27/01, effective 1/27/02)

WAC 246-840-930 Criteria for delegation. (1) Before delegating a nursing task, the registered nurse delegator must determine that it is appropriate to delegate based on the elements of the nursing process: ASSESS, PLAN, IMPLEMENT, EVALUATE:

ASSESS

(2) Determine that the setting allows delegation because it is a (~~certified community residential program for the developmentally disabled, a licensed adult family home, or a licensed boarding home~~) community-based care setting as defined by RCW 18.79.260 (3)(e)(i) or an in-home care setting as defined by RCW 18.79.260 (3)(e)(ii).

(3) Assess the patient's nursing care needs and determine that the patient is in a stable and predictable condition.

(4) Determine that the task to be delegated is within the delegating nurse's area of responsibility.

(5) Determine that the task to be delegated can be properly and safely performed by the nursing assistant. The registered nurse delegator shall assess the potential risk of harm for the individual patient. Potential harm may include, but is not limited to, infection, hemorrhage, hypoxemia, nerve damage, physical injury, or psychological distress.

(6) Analyze the complexity of the nursing task and determine the required training or additional training needed by the nursing assistant to competently accomplish the task. The registered nurse delegator shall consider the psychomotor and cognitive skills required to perform the nursing task. More complex tasks may require additional training and supervision for the nursing assistant. The registered nurse delegator must identify and facilitate any additional training of the nursing assistant that is needed prior to delegation. The registered nurse delegator must ensure that the task to be delegated can be properly and safely performed by the nursing assistant.

(7) Assess the level of interaction required, considering language or cultural diversity that may affect communication or the ability to accomplish the task to be delegated, as well as methods to facilitate the interaction.

(8) Verify that the nursing assistant:

(a) Is currently registered or certified as a nursing assistant in Washington state and is in good standing without restriction;

(b) As required in WAC 246-841-405 (2)(a), nursing assistants registered must complete both the basic caregiver training and core delegation training before performing any delegated task;

(c) Has a certificate of completion issued by the department of social and health services indicating completion of

the required core nurse delegation (~~((for nursing assistants)) training; and~~

(d) Is willing to perform the task in the absence of direct or immediate nurse supervision and accept responsibility for their actions.

(9) Assess the ability of the nursing assistant to competently perform the delegated nursing task in the absence of direct or immediate nurse supervision to ensure that the nursing task can be properly and safely performed by the nursing assistant.

(10) If the registered nurse delegator determines delegation is appropriate, the nurse must:

(a) Discuss the delegation process with the patient or authorized representative, including the level of training of the nursing assistant delivering care.

(b) Obtain patient consent. The patient, or authorized representative, must give written, informed consent to the delegation process under chapter 7.70 RCW. Documented verbal consent of patient or authorized representative may be acceptable if written consent is obtained within thirty days; electronic consent is an acceptable format.

(c) Written consent is only necessary at the initial use of the nurse delegation process for each patient and is not necessary for task additions or changes or if a different nurse or nursing assistant will be participating in the process.

PLAN

(11) Document in the patient's record the rationale for delegating or not delegating nursing tasks.

(12) Provide specific, written delegation instructions to the nursing assistant with a copy maintained in the patient's record that include:

(a) The rationale for delegating the nursing task;

(b) That the delegated nursing task is specific to one patient and is not transferable to another patient;

(c) That the delegated nursing task is specific to one nursing assistant and is not transferable to another nursing assistant;

(d) The nature of the condition requiring treatment and purpose of the delegated nursing task;

(e) A clear description of the procedure or steps to follow to perform the task;

(f) The predictable outcomes of the nursing task and how to effectively deal with them;

(g) The risks of the treatment;

(h) The interactions of prescribed medications;

(i) How to observe and report side effects, complications, or unexpected outcomes and appropriate actions to deal with them, including specific parameters for notifying the registered nurse delegator, health care provider, or emergency services;

(j) The action to take in situations where medications and/or treatments and/or procedures are altered by health care provider orders, including:

(i) How to notify the registered nurse delegator of the change;

(ii) The process the registered nurse delegator will use to obtain verification from the health care provider of the change in the medical order; and

(iii) The process to notify the nursing assistant of whether administration of the medication or performance of the procedure and/or treatment is delegated or not;

(k) How to document the task in the patient's record;

(l) Document what teaching was done and that a return demonstration, or other method for verification of competency, was correctly done; and

(m) A plan of nursing supervision describing how frequently the registered nurse will supervise the performance of the delegated task by the nursing assistant and reevaluate the delegated nursing task. Supervision shall occur at least every ninety days.

(13) The administration of medications may be delegated at the discretion of the registered nurse delegator but never by injection (by intramuscular, intradermal, subcutaneous, intraosseous, intravenous, or otherwise). The registered nurse delegator must provide written parameters specific to an individual patient which includes guidelines for the nursing assistant to follow in the decision-making process to administer a medication and the procedure to follow for such administration.

IMPLEMENT

(14) Delegation requires the registered nurse delegator teach the nursing assistant how to perform the task, including return demonstration or other method of verification of competency as determined by the registered nurse delegator.

(15) The registered nurse delegator is accountable and responsible for the delegated nursing task. The registered nurse delegator must monitor the performance of the task(s) to assure compliance to established standards of practice, policies and procedures and to ensure appropriate documentation of the task(s).

EVALUATE

(16) The registered nurse delegator must evaluate the patient's responses to the delegated nursing care and to any modification of the nursing components of the patient's plan of care.

(17) The registered nurse delegator must supervise and evaluate the performance of the nursing assistant, including direct observation or other method of verification of competency of the nursing assistant to perform the delegated nursing task. The registered nurse delegator must also reevaluate the patient's condition, the care provided to the patient, the capability of the nursing assistant, the outcome of the task, and any problems.

(18) The registered nurse delegator must ensure safe and effective services are provided. Reevaluation and documentation must occur at least every ninety days. Frequency of supervision is at the discretion of the registered nurse delegator.

AMENDATORY SECTION (Amending WSR 02-02-047, filed 12/27/01, effective 1/27/02)

WAC 246-840-940 Washington state nursing care quality assurance commission community-based and in-home care setting delegation decision tree.

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(1)	Does the patient reside in one of the following settings? (A certified community-residential program for the developmentally disabled, a licensed adult-family home, a licensed boarding home) <u>A community-based care setting as defined by RCW 18.79.260 (3)(e)(i) or an in-home care setting as defined by RCW 18.79.260 (3)(e)(ii).</u>	No ⇒	Do not delegate
Yes ↓			
(2)	Has the patient or authorized representative given consent to the delegation?	No ⇒	Obtain the written, informed consent
Yes ↓			
(3)	Is RN assessment of patient's nursing care needs completed?	No ⇒	Do assessment, then proceed with a consideration of delegation
Yes ↓			
(4)	<u>Does the patient have a stable and predictable condition?</u>	No ⇒	<u>Do not delegate</u>
Yes ↓			
((4)) (5)	Is the task within the registered nurse's scope of practice?	No ⇒	Do not delegate
Yes ↓			
((5)) (6)	Is the nursing assistant registered or certified and properly trained in the nurse delegation for nursing assistants?	No ⇒	Do not delegate
Yes ↓			
(7)	<u>Does the delegation exclude the administration of medications by injection, sterile procedures or central line maintenance?</u>	No ⇒	<u>Do not delegate</u>
Yes ↓			
((6)) (8)	Can the task be performed without requiring judgment based on nursing knowledge?	No ⇒	Do not delegate
Yes ↓			
((7)) (9)	Are the results of the task reasonably predictable?	No ⇒	Do not delegate
Yes ↓			
((8)) (10)	Can the task be safely performed according to exact, unchanging directions?	No ⇒	Do not delegate
Yes ↓			
((9)) (11)	Can the task be performed without a need for complex observations or critical decisions?	No ⇒	Do not delegate
Yes ↓			

((10)) (12)	Can the task be performed without repeated nursing assessments?	No ⇒	Do not delegate
Yes ↓			
((11)) (13)	Can the task be performed improperly without life-threatening consequences?	No ⇒	Do not delegate
Yes ↓			
((12)) (14)	Is appropriate supervision available?	No ⇒	Do not delegate
Yes ↓			
((13)) (15)	There are no specific laws or rules prohibiting the delegation?	No ⇒	Do not delegate
Yes ↓			
((14)) (16)	Task is delegable		

WSR 04-14-068

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed July 2, 2004, 1:57 p.m., effective September 1, 2004]

Effective Date of Rule: September 1, 2004.

Purpose: To align the student FTE calculation for funding with state board program calculation for credits found in WAC 180-50-315 and to establish in rule the limit on the number of work based learning hours that may be claimed for a student pursuing one credit.

Citation of Existing Rules Affected by this Order: Amending WAC 392-121-124.

Statutory Authority for Adoption: RCW 28A.150.290.

Adopted under notice filed as WSR 04-08-127 on April 7, 2004.

Changes Other than Editing from Proposed to Adopted Version: Clarify language in the rules to allow instructional work based learning hours to be calculated based on enrolled rather than actual hours.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 12, 2004.

July 1, 2004
 Dr. Terry Bergeson
 Superintendent of
 Public Instruction

WSR 04-14-069
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed July 2, 2004, 2:04 p.m., effective August 2, 2004]

Effective Date of Rule: August 2, 2004.

Purpose: This rule relates to crime victim's compensation, provider obligations, WAC 296-30-081 and 296-31-070. This rule adoption:

- Clarifies the requirement that mental health providers must comply with department rules.
- Clarifies that mental health providers must comply with crime victim treatment rule; and
- Amends the rules to now require mental health providers to bill within one year of date of service, date of claim allowance, or date of denial from primary insurance.

Citation of Existing Rules Affected by this Order: Amending WAC 296-30-081 and 296-31-070.

Statutory Authority for Adoption: RCW 7.68.030.

Adopted under notice filed as WSR 04-08-091 on April 6, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: July 2, 2004.

Joel Sacks
 for Paul Trause
 Director

AMENDATORY SECTION (Amending Order 98-03, filed 3/17/98, effective 4/17/98)

WAC 392-121-124 Full-time equivalent enrollment for work based learning. For work based learning provided pursuant to WAC 180-50-315, a student's full-time equivalent shall be determined as follows:

(1) For cooperative work based learning experience, in accordance with WAC 180-50-315 (1)(g), divide the student's hours of work experience for the month by two hundred ((twenty-five)); for example: ((Forty-five)) Forty hours of cooperative work experience equals two tenths of a full-time equivalent (((45)) 40 + ((225)) 200 = 0.20). For instructional work based learning experience, in accordance with WAC 180-50-315 (1)(f) and WAC 296-125-043(4), divide the student's enrolled hours of work experience for the month by one hundred; for example: Twenty hours of instructional work experience equals two tenths of a full-time equivalent (20 + 100 = 0.20). Enrollment exclusions in WAC 392-121-108 apply to instructional work based learning enrolled hours.

(2) Estimated or scheduled hours of cooperative work based learning experience may be used in determining a student's full-time equivalent on an enrollment count date: Provided, That the combined monthly hours reported for the school year shall not exceed the student's actual hours of cooperative work based learning experience documented on the student's work records and maintained by the school district for audit purposes. Instructional and cooperative work based learning experience during June of the regular school year shall be included in the May enrollment count.

(3) Work based learning provided as part of a state-approved vocational education program qualifies for enhanced vocational funding and may be included in determining a student's vocational full-time equivalent enrollment.

(4) No more than three hundred sixty hours of cooperative work based learning may be claimed for funding for each credit a student pursues as reported on the student's transcript. No more than one hundred eighty hours of instructional work based learning may be claimed for funding for each credit a student pursues as reported on the student's transcript.

(5) Funding may be claimed only for work based learning hours that occur after the work based learning plan, work based agreement, program orientation and new employee orientation, as defined in WAC 180-50-315, are completed.

AMENDATORY SECTION (Amending WSR 00-03-056, filed 1/14/00, effective 2/14/00)

WAC 296-31-070 What are my general obligations as an approved mental health provider? (1) When treating a crime victim who comes under our jurisdiction, you agree to accept and comply with this chapter, the department's rules, and the Crime Victims Compensation Program's Mental Health Treatment Rules and Fee((s)) Schedule.

(2) You must inform the client they may be entitled to benefits under the Crime Victims Act and provide whatever assistance is necessary for the client to apply for benefits. There is no charge for these services.

(3) It is the responsibility of the client to notify the provider if they believe their condition is related to a criminal act. If you discover a condition that you believe is crime

related, you must notify the client. It is your responsibility to determine if you are the first treating provider.

(4) If you are the first treating provider, you must:

(a) Provide crisis intervention as necessary;

(b) Provide instructions or help the client complete their portion of the application for benefits; and

(c) Continue necessary treatment according to our mental health rules if the client remains in your care.

(5) If you are not the first treating provider, you should ask the client if an application for benefits has been filed for the condition.

(a) If an application for benefits has been filed, and you and the client agree that a change of provider is desirable, the department should be notified of the transfer according to WAC 296-31-068.

(b) If an application for benefits has not been filed:

(i) Provide instructions or help the client complete their portion of the application for benefits; and

(ii) Include the name and address of the original provider, if known.

Note: Providers must determine if the client has public or private insurance benefits available. If there is, the provider should make sure they would be able to continue treating under the client's primary insurance. Crime victims compensation is secondary to other benefits according to RCW 7.68.130.

(6) You must notify us and the client of the date they are released to regular work. Time-loss compensation terminates on the release date. We may allow further treatment if:

(a) You request it;

(b) Treatment is needed; and

(c) The accepted condition is not fixed and stable.

(7) You must notify us if permanent functional impairment or loss (permanent partial disability) is indicated after maximum recovery of the accepted condition is achieved. We will arrange to have impairments rated according to WAC 296-20-200 et al.

(8) A client must not be billed for treatment, except under the following condition:

A provider may require the client to pay for treatment if the client's eligibility is in question (e.g., when an investigation or claim determination is pending). If the claim is subsequently allowed, the provider must refund the client in full and bill us at their usual and customary fees if such rates are in excess of the public and private insurance entitlements.

(9) No fee is payable by the department for missed appointments unless the appointment is for an examination arranged by the department. Clients may be billed directly for missed or no show appointments.

AMENDATORY SECTION (Amending WSR 00-03-056, filed 1/14/00, effective 2/14/00)

WAC 296-30-081 What are the general obligations of a provider who provides medical or mental health services to a crime victim? (1) When treating a crime victim who comes under our jurisdiction, you agree to accept and comply with the department's rules and fees.

(a) ~~((Medical))~~ All providers must comply with this chapter and the department's medical aid rules and fee schedules.

(b) Mental health providers must comply with this chapter, the department's medical aid rules and fee schedules, and the *Crime Victims Compensation Programs Mental Health Treatment Rules and Fees*.

(2) You must inform the victim of his or her rights under the Crime Victims Act and give whatever assistance is necessary for the victim to apply for compensation and provide proof of other matters required by our rules. Providers may not charge the victim for these services.

(3) Providers are urged to bill on a monthly basis. In order to be considered for payment, bills must be submitted within one year from the date of service, or the date of claim allowance. If private or public insurance exists, bills must be received within one year of the primary insurer's payment decision. You must attach a copy of the primary insurer's explanation of benefits when submitting your bill for payment consideration.

WSR 04-14-076

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed July 6, 2004, 8:25 a.m., effective January 1, 2005]

Effective Date of Rule: January 1, 2005.

Purpose: The purpose of the adopted amendments to WAC 16-250-155 and 16-252-155 is to increase tonnage fees for commercial feed and pet food/specialty pet food from nine cents per ton to twelve cents per ton in order to help reduce a feed program funding deficit. The feed program is funded entirely from fees (registration fees, license fees and inspection fees). The three-cent/ton increase that the department is adopting will not completely address the feed program funding deficit, but it will give the department and its feed advisory committee sufficient time to address long-term program funding needs and solutions. Note: Section 309(2), chapter 25, Laws of 2003 1st sp.s. (ESSB 5404) authorizes the department to adopt fee increases that exceed the Office of Financial Management (OFM) fiscal growth rate factor.

Citation of Existing Rules Affected by this Order: Amending WAC 16-250-155 and 16-252-155.

Statutory Authority for Adoption: Chapter 15.53 RCW, chapter 25, Laws of 2003 1st sp.s. (ESSB 5404).

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 04-11-093 on May 19, 2004.

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 Mak-

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ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: July 6, 2004.

William E. Brookreson
for Valoria H. Loveland
Director

AMENDATORY SECTION (Amending WSR 03-23-128, filed 11/19/03, effective 7/1/04)

WAC 16-250-155 Tonnage fee requirements. Each initial distributor of commercial feed in or into Washington state must pay the department an inspection fee of ~~((nine))~~ twelve cents per ton on all commercial feed they sold during the year. The minimum inspection fee, the late penalty fee, and exceptions to payment of the fee are as authorized in RCW 15.53.9018.

AMENDATORY SECTION (Amending WSR 03-23-129, filed 11/19/03, effective 7/1/04)

WAC 16-252-155 Tonnage fee required. Each initial distributor of a pet food or specialty pet food in or into Washington state must pay the department an inspection fee of ~~((nine))~~ twelve cents per ton on all pet food or specialty pet food they sold, for distribution within Washington state, during the year. The minimum inspection fee, the late penalty fee, and exceptions to payment of the fee are as authorized in RCW 15.53.9018.

WSR 04-14-077

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed July 6, 2004, 8:36 a.m., effective August 6, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To implement respectful language requirements - specifically, using the term "Individual with disabilities" required under SSB 6325, chapter 222, Laws of 2004, and to clarify rules and help make them more comprehensible.

Citation of Existing Rules Affected by this Order: Amending WAC 308-96A-005, 308-96A-306, 308-96A-311, 308-96A-312, 308-96A-313, 308-96A-314, and 308-96A-316.

Statutory Authority for Adoption: RCW 46.16.381.

Adopted under notice filed as WSR 04-10-003 on April 22, 2004.

Changes Other than Editing from Proposed to Adopted Version: We have added one more question to WAC 308-96A-311 and added a few grammar changes.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 7, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 7, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 6, 2004.

James A. Fellows
for Fred Stephens
Director

AMENDATORY SECTION (Amending WSR 02-17-024, filed 8/12/02, effective 9/12/02)

WAC 308-96A-005 Terminology—Definitions. Terms used in chapter 46.16 RCW and this chapter will have the following meanings except where otherwise defined, and where the context clearly indicates the contrary:

(1) "Affidavit of loss" means a department form used by an applicant, to indicate that a title, registration, license tab, or decal has been lost, stolen, mutilated or destroyed. The form is completed and signed under oath in the presence of an official, such as a notary public, or certified by a license clerk or the authorized agent for a dealership, when a vehicle is in their inventory for resale.

(2) "Agent" means any county auditor, or other individual or business entity other than a subagent appointed to carry out vehicle licensing and titling functions for the department. (RCW 46.01.140.)

(3) "Application" means a form provided or approved by the department to apply for different types of services and documents.

(4) "Cab and chassis" is a truck manufactured and sold with only a cab and the frame and running gear. (WAC 308-96A-145.)

(5) "Certificate of license registration" means a document issued by the department and required by RCW 46.16.260 to be carried in the vehicle to operate legally on the roadways of Washington and described in RCW 46.12.050. The certificate of license registration is renewed annually.

(6) "Collector vehicle license plate" is a special license plate that may be assigned to a vehicle that is more than thirty years old as authorized by RCW 46.16.305(1).

(7) "Confidential" and "undercover" license plates are standard issue license plates assigned to vehicles owned or operated by public agencies. These license plates are used as specifically authorized by RCW 46.08.066.

(8) "Current year" means the current registration year unless otherwise stated. (WAC 308-96A-260.)

(9) "Department" means the department of licensing. (RCW 46.04.162.)

(10) (~~"Disabled persons parking placard expiration date"~~) means:

~~(a) The last day of the month specified on a temporary placard; or~~

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~~(b) Not less than five years from the end of the month and year of issuance of a permanent placard, as specified by the department on the placard. (RCW 46.16.381.)~~

~~((11))~~ "Expiration day and month."

(a) "Date of expiration" or "expiration date" means the day of the month on which the vehicle registration, gross weight license, decal or tabs expire.

(b) "Month of expiration" or "expiration month" means the calendar month during which a registration period ends. (WAC 308-96A-260.)

~~((12))~~ (11) "Fleet" means a group of vehicles registered in the same owner name and which have been assigned the same fleet identifier code by the department.

~~((13))~~ (12) "Fixed load vehicle" is specified in RCW 46.16.079 and described in WAC 308-96A-099.

~~((14))~~ (13) "Gross weight" means gross weight defined in RCW 46.16.070, 46.16.090, 46.16.111 and chapter 46.44 RCW.

~~((15))~~ (14) "Hybrid motor vehicle" means a vehicle that uses multiple power sources or fuel types for propulsion and meets the federal definition of a hybrid motor vehicle.

~~((16))~~ (15) "Identification card" means the identification card referred to in RCW 46.16.381(3) for disabled parking privileges and is used for identification of persons with disabilities.

~~((17))~~ (16) "Indian country" means all lands, notwithstanding the issuance of any patent, within the exterior boundaries set aside by the United States for the use and occupancy of Indian tribes by treaty, law or executive order and which are areas currently recognized as "Indian country" by the United States Department of the Interior as referenced in 18 U.S.C. 1151 and CFR 25.

~~((18))~~ (17) "Indian tribe" means an Indian nation, tribe, band, or community recognized as an "Indian tribe" by the United States Department of the Interior.

~~((19))~~ (18) "Indian" means a person on the tribal rolls of the Indian tribe occupying Indian country.

(19) "Individual with disabilities parking placard expiration date" means the last day of the month as specified on the department placard.

(20) "Jurisdiction" as used in the parking ticket system means any district, municipal, justice, superior court, or authorized representative.

(21) "Jurisdiction seal" means a method of verifying authenticity of court documents, which is provided by the jurisdiction that issued the citation. A jurisdiction seal is an embossed seal or stamp provided by the jurisdiction.

(22) "License or licensing" and "register or registering" are synonymous and mean the act of registering a vehicle under chapter 46.16 RCW.

(23) "License fee" means the fees required for the act of licensing a vehicle under chapter 46.16 RCW. License fee does not include license plate fees identified as taxes, and fees collected by the department for other jurisdictions.

(24) "License tab fees" means the same as described in RCW 46.16.0621.

(25) "Licensed physician" for the purpose of ~~((disabled person))~~ individual with disabilities parking privileges, means: Chiropractic physicians, naturopaths, medical doctors, ~~((advanced registered nurse practitioners,))~~ osteopathic

physicians ~~((and)),~~ podiatric physicians, and advanced registered nurse practitioners. Licensed physician does not include persons licensed in the professions of dentistry and optometry. (RCW 46.16.381(1).)

(26) "Motor home" means a vehicle designed or altered for human habitation as described in RCW 46.04.305.

(27) "Municipality" in reference to parking tickets, means every court having jurisdiction over offenses committed under RCW 46.20.270.

(28) "NCIC number" means the numeric code assigned by the National Crime Information Center to identify a jurisdiction.

(29) "One hundred twenty-day notice" in reference to parking violations means a notice of parking violations that must be satisfied prior to the registration renewal date. (RCW 46.16.216.)

(30) "Parking ticket disposition" means the requested action as determined by the jurisdiction to add failure-to-pay parking violations, or to remove paid parking violations from a vehicle record. (RCW 46.16.216.)

(31) "Parking violation" means any standing, stopping or parking violation per RCW 46.20.270(3).

(32) "Parking violation list" means a computerized list containing all outstanding parking violations, which have been processed by the department (RCW 46.16.216(1).)

(33) "Permanent" in reference to ~~((disabled person))~~ individual with disabilities parking privileges, means a licensed physician has certified that a qualifying condition is expected to last at least five years. (RCW 46.16.381. WAC 308-96A-306.) ~~((Disabled persons))~~ Individual with disabilities parking privileges must be renewed every five years.

(34) "Permit" in reference to ~~((disabled person))~~ individual with disabilities parking privileges means the proof provided by the department in the form of placard(s), special license plate(s) and an identification card indicating eligibility for ~~((disabled person))~~ individual with disabilities parking privileges. (RCW 46.16.381.)

(35) "Personalized license plates" are plates denoting the registered owner's chosen format or designation and are limited to those described in RCW 46.16.560, 46.16.570, and 46.16.580. (WAC 308-96A-065.)

(36) "Personal use vehicle" in reference to disabled veteran's, prisoners of war and congressional medal of honor plates, means vehicles not used for commercial purpose including: Passenger vehicles, motor homes, motorcycles, and trucks with designated gross vehicle weight not exceeding twelve thousand pounds. Registration ownership must be in the name of the individual and not in the business name. (WAC 308-96A-046.)

(37) "Placard" means a document issued to ~~((persons))~~ individuals who qualify for special ~~((disabled person))~~ individual with disabilities parking privileges under RCW 46.16.381 and are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and individual serial number.

(38) "Private carriers" means those entities contracting with public transportation authorities to transport persons with disabilities described in RCW 46.16.381. (WAC 308-96A-316.)

(39) "Privilege" in reference to ~~((disabled person's))~~ individual with disabilities parking privileges means permission to utilize the benefits associated with the permit. (RCW 46.16.381, 46.61.582 and 70.84.090. WAC 308-96A-306.)

(40) "Public transportation authorities" means those entities operating motor vehicles owned or leased by Washington state, or a town, city, county, municipality, or metropolitan or municipal corporation within the state, or United States government agencies or Indian nations used for the primary purpose of transporting persons with disabilities described in RCW 46.16.381.

(41) "Regular fleet" means a group of five or more vehicles registered in the same owner(s) name and which have been assigned the same fleet identifier code by the department and has an expiration date of December 31st of each year. (WAC 308-96A-161.)

(42) "Rental car" means a car that is rented as defined in RCW 46.04.465.

(43) "Renewal notice" means the notice to renew a vehicle license provided by the department approximately sixty days prior to the current expiration year.

(44) "Salvage title" means a certificate of title issued by another jurisdiction designating a motor vehicle as a "salvage vehicle."

(45) "Scale weight" means the weight of a vehicle as it stands without a load. (RCW 46.16.070 and 46.16.111.)

(46) "Signature" means any memorandum, mark, sign or subscriptions made with intent to authenticate an application. (RCW 9A.04.110(23).)

(47) "Special mailer" means the notice sent by the department in lieu of a renewal notice. The special mailer indicates additional or corrective information that must be provided at the time of registration renewal.

(48) "Subagent" means individual(s), business, organization, or political entity appointed by the director to provide vehicle and vessel licensing and titling services under contract with the agent as described in RCW 46.01.140.

(49) "Tab(s)" means decals, issued by the department, affixed to the rear license plate to identify the registration expiration month or year for a specific vehicle.

(50) "Tonnage," "declared gross weight" and "declared combined gross weight" are used interchangeably when referring to the amount of weight declared by an owner when licensing a vehicle as described in RCW 46.16.070 and 46.16.111.

(51) "Transit permit" means a document that authorizes an individual to operate a vehicle on a public highway of this state solely for the purpose of obtaining necessary documentation to complete and apply for a Washington certificate of ownership or registration, and does not allow unrestricted use of the vehicle. (WAC 308-96A-026.)

(52) "Unprocessed" as used in parking ticket system means no update of the computer record has occurred.

(53) "Use classes" means those vehicles described in WAC 308-96A-099.

(54) "Vehicle data base record" means the electronic record stored on the department's motor vehicle data base reflecting vehicle and ownership information.

AMENDATORY SECTION (Amending WSR 02-04-002, filed 1/23/02, effective 2/23/02)

WAC 308-96A-306 Definitions—~~((Disabled person))~~ Individual with disabilities special parking privileges. For the purposes of determining eligibility for special ~~((disabled person))~~ individual with disabilities parking placards and license plates, the following definitions apply:

(1) For the purposes of determining a disability that limits a person's abilities as defined in RCW 46.16.381 and for determining eligibility for certifying ~~((disabled person))~~ individual with disabilities parking privileges under RCW 46.16.381, "licensed physician" is a health care provider to include: Chiropractor (DC), naturopath (ND), physician or surgeon (MD or DO), podiatrist (DPM), advanced registered nurse practitioner (ARNP). Licensed physician does not include persons licensed in the professions of dentistry and optometry.

(2) "Permanent" means a licensed physician has certified that the qualifying disability condition is expected to last at least five years.

(3) "Permit" means the eligibility for the temporary or permanent placard or special license plate(s) and identification card.

(4) "Identification card" means the identification card referred to in RCW 46.16.381(3).

(5) "Private carriers" means those entities contracting with public transportation authorities to transport persons with disabilities described in RCW 46.16.381.

(6) "Privilege" means the right to utilize the benefits associated with the ~~((permit))~~ individuals with disabilities, parking placards, identification card and license plate(s).

(7) "Public transportation authorities" means those entities operating motor vehicles owned or leased by Washington state, or a town, city, county, municipality, or metropolitan or municipal corporation within the state, or United States government agencies or Indian nations used for the primary purpose of transporting persons with disabilities described in RCW 46.16.381.

(8) "Signature" means any memorandum, mark, stamp, or sign made with intent to authenticate an application for a placard, or the subscription of any person thereto as provided in RCW 9A.04.110(23).

(9) "Application" means the form provided by the department that must be completed by the individual and physician or the form that must be completed by the organization.

AMENDATORY SECTION (Amending WSR 02-04-002, filed 1/23/02, effective 2/23/02)

WAC 308-96A-311 General provisions. ~~((1))~~ How do I qualify for a disabled person parking privilege?

~~In order to qualify for a disabled person parking privilege, a licensed physician as identified in WAC 308-96A-306(1) must certify that you have a disability that limits or impairs the ability to walk and that you meet one of the requirements listed in RCW 46.16.381 (1)(a) through (g). The physician's certification is required for all original applications and renewal applications submitted between June 1, 1998, and June 10, 2003. After June 10, 2003, only original~~

permanent privilege applications and all temporary applications will require the licensed physician's certification:

(2) What types of placards are issued?

The types of placards you may receive are:

- (a) Temporary; or
- (b) Permanent.

(3) How do I apply for a disabled person parking privilege?

To apply for the disabled person parking privilege, a licensed physician must complete and certify his or her portion of the application. Then, you must complete and sign your portion of the application and submit it to the department as provided in WAC 308-96A-312 (temporary placard); WAC 308-96A-313 (permanent placard) or WAC 308-96A-314 (special license plates).

(4) Who may sign the application for the disabled person that is unable to sign or is a minor?

When the disabled person is unable to sign or is a minor, the application may be signed by an authorized representative of the disabled person. The application must then be accompanied by a copy of one of the following:

- (a) A power of attorney;
- (b) A Washington state court order or certification from the clerk of court confirming the court's action; or
- (c) An affidavit explaining why the applicant is unable to sign and explaining the signing person's association with the applicant. Example: Signature, Jane Doe, daughter.

(5) When is the disabled person parking privilege no longer valid?

The disabled person parking privilege is no longer valid:

- (a) Upon expiration of the privilege;
 - (b) Upon death of the disabled person;
 - (c) If the disability no longer exists; or
 - (d) If the privilege was issued in error.
- (6) Why is the identification card issued?

The identification card is issued to assist law enforcement in determining that the person who is using the disabled person parking placard or disabled person special license plate is the person to whom the privilege was issued.

(7) Must I present the identification card upon request of law enforcement? Yes.

(a) Your identification card must be shown upon request of any law enforcement officer, parking enforcement officer or volunteer appointed for purposes of issuing notices of parking infractions.

(b) If you have just applied for and not yet received an ID card, show the receipt you received at the time of application.)

(1) How do I qualify for an individual with disabilities parking privilege?

In order to qualify for a temporary or permanent individual with disabilities parking privilege, a licensed physician or advanced registered nurse practitioner (ARNP) must certify, on a department approved application form, that you have a disability that limits or impairs your ability to walk and that you meet the requirements listed in RCW 46.16.381(1). For the purpose of implementing this rule, a physician is defined as a health care provider to include: Chiropractor (DC), naturopath (ND), physician or surgeon (MD or DO), podiatrist (DPM). Licensed physician does not include persons licensed in the professions of dentistry and optometry. The

physician or ARNP as defined above must certify that you have a disability that limits or impairs the ability to walk and that you meet one of the following criteria allowed by RCW 46.16.381:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Are severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Are so severely disabled, that you cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Use portable oxygen;

(e) Are restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry, is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Are impaired by cardiovascular disease or cardiac condition to the extent that your functional limitations are classified as class III or IV under standards accepted by the American Heart Association; or

(g) Have a disability resulting from an acute sensitivity to automobile emissions which limits or impairs your ability to walk. Your personal physician or advanced registered nurse practitioner must document that your disability is comparable in severity to the others listed in this subsection.

The medical certification is required for all original applications for permanent and temporary disability privileges and for permanent disability privileges that have been expired more than thirty days. Certification is not required for renewal of existing Washington privileges for an individual with disabilities.

(2) How do I apply for an individual with disabilities parking privilege?

Once the licensed physician or ARNP portion of the application is completed, you must complete and sign your portion of the application and submit it to the department or file the form in person at most Washington vehicle licensing offices, as noted on the application.

(3) Who may sign the application for an individual with disabilities who is unable to sign or is a minor?

When an individual with disabilities is unable to sign or is a minor, the application may be signed by an authorized representative of the individual with disabilities. The application must then be accompanied by a copy of one of the following:

(a) A power of attorney;

(b) A Washington state court order or certification from the clerk of court confirming the court's action; or

(c) An affidavit explaining why the applicant is unable to sign and explaining the signing person's association with the applicant. Example: Signature, Jane Doe, daughter.

(4) When is the individual with disabilities parking privilege no longer valid?

The individual with disabilities parking privilege is no longer valid:

(a) Upon expiration of the privilege;

(b) Upon death of the individual with disabilities;

(c) If the disability no longer exists; or

(d) If the privilege was issued in error.

(5) What happens if I do not renew my permanent parking privilege prior to the expiration date?

When an individual with disabilities parking privilege is expired for more than thirty calendar days, a new original application with physician or ARNP's certification will be required.

(6) What will I receive once my application is approved?

You will receive an individual with disabilities identification card and:

(a) If you have a temporary disability you will receive one red temporary placard;

(b) If you have a permanent disability you may choose to receive:

(i) Up to two blue permanent placards; or

(ii) One blue permanent placard and one set of individual with disabilities license plates. The individual with disabilities must be a registered owner to receive these special license plates.

(7) When can the individual with disabilities parking privileges be used?

The parking privileges may only be used when the person to whom the plate or placard is issued is being transported.

(8) Why is the individual with disabilities identification card issued?

The individual with disabilities identification card must be available for law enforcement or parking enforcement officials to verify the identity of the individual with disabilities and to ensure the parking privilege is only used by those who qualify for that privilege.

If you have just applied for and not yet received an individual with disabilities identification card, show the receipt you received at the time of application.

(9) How do I display the individual with disabilities parking placard?

(a) The placard is made to be hung from the rearview mirror post; or

(b) In the absence of the rearview mirror post, the placard may be placed on the dashboard.

However displayed, the entire placard must be visible through the vehicle windshield.

AMENDATORY SECTION (Amending WSR 02-04-002, filed 1/23/02, effective 2/23/02)

WAC 308-96A-312 Temporary (~~disabled person~~) individual with disabilities parking placard and identification card. (1) Where and how may I obtain a temporary (~~disabled person~~) individual with disabilities parking placard and identification card issued to a person with a temporary disability?

You may obtain a temporary (~~disabled person~~) individual with disabilities parking placard issued to a person with a temporary disability at Washington vehicle licensing offices by submitting a completed and signed application certified by a licensed physician or ARNP. Identification cards are automatically (~~issued~~) generated at the time the (~~disabled~~) placard is issued and will be mailed to you.

(2) How long is the temporary (~~disabled person~~) individual with disabilities parking privilege valid?

The temporary (~~disabled person~~) parking placard and identification card issued to (~~a person~~) an individual with a temporary disability is valid for up to six months from the date of issuance by the department.

(3) Can my temporary (~~disabled person~~) individual with disabilities parking privilege be extended?

If your condition continues beyond the expiration date, you may obtain a new temporary (~~disabled person~~) individual with disabilities parking placard and identification card by submitting a new application completed and certified by a licensed physician or ARNP.

(4) What happens if the temporary (~~disabled person~~) individual with disabilities parking placard or identification card is lost, mutilated, destroyed, or stolen?

If you wish to replace your temporary (~~disabled person~~) individual with disabilities parking placard or identification card, complete and sign a statement explaining what happened to the placard or identification card. A new temporary (~~disabled person~~) individual with disabilities parking placard or identification card will be issued by mail, to you, indicating the original expiration date. The placard or identification card being replaced are no longer valid and should be destroyed if located.

(5) When is the temporary (~~disabled person~~) individual with disabilities parking placard and identification card issued to a person with a temporary disability no longer valid?

The placard and identification card are no longer valid:

(a) Upon expiration of the privilege; or

(b) Upon death of the (~~disabled person~~) individual with disabilities; or

(c) If the disability no longer exists; or

(d) If a replacement placard and identification card has been issued; or

(e) If the privilege was issued in error.

(6) What should I do (~~when~~) with my temporary placard and identification card (~~issued to a person with a temporary disability~~) when they are no longer valid?

When your temporary placard and identification card are no longer valid, they should be destroyed.

AMENDATORY SECTION (Amending WSR 02-04-002, filed 1/23/02, effective 2/23/02)

WAC 308-96A-313 (~~Disabled person~~) Individual with disabilities parking placard and identification card—For permanent disabilities. (1) Where are (~~disabled person~~) individual with disabilities parking placard(s) and identification cards issued to persons with a permanent disability?

(~~Disabled persons~~) Individuals with disabilities parking placards for persons with a permanent disability are issued at Washington vehicle licensing offices. Identification cards (~~may be~~) are issued and applied for at the time the disabled placard is issued and will be mailed to you.

(2) When do (~~disabled person~~) individual with disabilities parking placard(s) expire?

~~((Disabled person))~~ Individual with disabilities parking placard(s) issued to persons with a permanent disability are issued for five years and expire on the last day of the month specified on the placard. Example: If a permanent placard is marked to expire in May ~~((2003))~~ 2008, it expires on May 31, ~~((2003))~~ 2008.

(3) **What happens if the ~~((disabled person))~~ individual with disabilities parking placard or identification card ~~((issued to persons with a permanent disability))~~ is lost, mutilated, destroyed, or stolen?**

If you wish to replace your permanent ~~((disabled person))~~ parking placard or identification card, complete and sign a statement explaining what happened to the placard or identification card. A replacement ~~((disabled person))~~ individual with disabilities parking placard or identification card will be issued indicating the original expiration date. The identification card will be mailed to you. Upon replacement of the placard and/or identification card, the original is no longer valid and should be destroyed if located.

(4) **How do I renew my permanent ~~((disabled person))~~ individual with disabilities parking placard(s)?**

The department will mail you a renewal notice ~~((to qualifying individuals))~~ prior to privilege expiration. You may submit a completed renewal notice or new application to a Washington vehicle licensing office to renew the parking placard. A new ~~((disabled person))~~ individual with disabilities parking placard(s) and a new identification card will be sent to you in the mail.

(5) **When are the ~~((disabled person))~~ individual with disabilities parking placard(s) ~~((issued to persons with a permanent disability))~~ no longer valid?**

The ~~((disabled person parking))~~ placard and identification card issued to persons with a permanent disability ~~((is))~~ are no longer valid:

- (a) Upon expiration of the placard; or
- (b) Upon death of the ~~((disabled person))~~ individual with disabilities; or
- (c) If the disability no longer exists; or
- (d) If the privilege was issued in error; or
- (e) If a replacement parking placard issued to persons with a permanent disability has been issued.

(6) **What do I receive when I apply for a ~~((disabled person))~~ individual with disabilities parking privilege?**

You may receive:

- (a) One placard; or
- (b) One set of special license plates for one vehicle which is registered in the name of the ~~((disabled person))~~ individual with disabilities; or
- (c) One placard and one set of special license plates; or
- (d) Two placards.

(7) **How do I obtain a second ~~((disabled person))~~ individual with disabilities parking placard?**

If you have only one permanent ~~((disabled person))~~ parking placard and no special ~~((disabled))~~ license ~~((plate))~~ plates issued for this parking privilege, you may obtain a second placard upon written request.

AMENDATORY SECTION (Amending WSR 03-05-082, filed 2/19/03, effective 3/22/03)

WAC 308-96A-314 ~~((Disabled person))~~ Individual with disabilities special license plates—Individual. (1) **Where can I obtain ~~((a disabled person))~~ an individual with disabilities special license plate and identification card?**

You may apply for ~~((a disabled person))~~ an individual with disabilities special license plate at most Washington vehicle licensing offices. You will receive the identification card and ~~((disabled person))~~ individual with disabilities special license plates in the mail.

(2) **How do I ~~((obtain disabled person))~~ qualify for individual with disabilities special license plates?**

To receive ~~((disabled person))~~ special license plates:

(a) Your name must be shown on the department's record as being a registered owner of the vehicle; and

(b) You must be certified by a licensed physician or ARNP as having a permanent disability or have already been granted a permanent ~~((disabled person))~~ individual with disabilities parking privilege established with the department.

(3) **When do the ~~((disabled person))~~ individual with disabilities special license plates and identification card expire?**

~~((The disabled person))~~ These special license plates ~~((earries))~~ carry the expiration date of your vehicle registration and must be renewed annually. The privilege to use the ~~((disabled person))~~ individual with disabilities special license plate must be renewed every fifth year from the month of issuance of the privilege.

(4) **When are the ~~((disabled person))~~ individual with disabilities special license plates no longer valid?**

~~((The disabled person))~~ These special license plates are no longer valid when:

- (a) The plates expire;
- (b) The privilege expires;
- (c) Upon death of the ~~((disabled person))~~ individual with disabilities;
- (d) If the disability no longer exists;
- (e) The ~~((disabled person))~~ special license plates have been canceled by department administrative action;
- (f) If the privilege was issued in error; or
- (g) If the ~~((disabled person))~~ individual with the disability is no longer shown on the department's record as being a registered owner of the vehicle.

(5) **How do I replace ~~((a disabled person))~~ the individual with disabilities special license plates if they become lost, mutilated, destroyed, or stolen?**

You shall complete and sign a statement explaining what happened to the ~~((disabled person))~~ individual with disabilities special license plate(s) and pay replacement plate fees. Replacement special ~~((disabled person))~~ individual with disabilities license plates will be issued indicating the current expiration date. See note following subsection (6) of this section.

(6) **When I am required to replace my ~~((disabled person))~~ individual with disabilities special license plate(s), will I receive the same number/letter combination? Yes.** Upon request and with payment of the plate retention fee in RCW 46.16.233, you will receive replacement ~~((disabled~~

person)) individual with disabilities parking special license plate(s) with the same number/letter combination as shown on the vehicle computer record.

Note: If the license plate(s) has been reported stolen or if the department record indicates the vehicle has been stolen, the same number/letter combination will not be used. This is a law enforcement issue and is for the protection of the public.

AMENDATORY SECTION (Amending WSR 03-05-082, filed 2/19/03, effective 3/22/03)

WAC 308-96A-316 Permanent placard and ((disabled person)) individual with disabilities special license plates for organizations. (1) When can a qualifying organization use disabled person special license plates or special ((disabled person)) individual with disabilities parking placards?

Qualifying organizations may only use ((disabled person)) these special license plates or ((disabled person)) parking placards when transporting any person who meets the criteria under RCW 46.16.381(1).

(2) How does an organization qualify for ((disabled person)) individual with disabilities special license plates and permanent ((disabled person)) parking placards?

The organization must:

(a) Service participants/clients who meet the criteria in RCW 46.16.381(3); and

(b) Report the status of each permanent ((disabled person)) individual with disabilities parking placard or ((disabled person)) special license plate to the department by April 30th each year.

(3) How does a qualifying organization apply for ((disabled person)) individual with disabilities special license plates and permanent ((disabled person)) parking placards?

The organization must submit a properly completed ((disabled person)) individual with disabilities parking privileges organization application to the department with appropriate documentation as indicated on the application.

(4) What may a qualifying organization receive when approved for ((disabled person)) individual with disabilities parking privileges?

(a) ((Disabled person)) Individual with disabilities special license plates may be issued for vehicles registered to the organization which regularly transport persons who have qualified or would qualify for ((disability)) this special parking privilege; or

(b) ((Disabled person)) Individual with disabilities parking placard(s) which may be used only when the vehicle in which they are displayed is transporting persons who have or would qualify for the ((disability)) special parking privilege.

An organization may receive up to ninety-nine placards based on ((their)) its legitimate business requirements. The department may approve exceptions.

(5) Where does a qualifying organization obtain ((disabled person)) individual with disabilities parking placard(s) or ((disabled person)) special license plates?

A qualifying organization may obtain permanent ((disabled person)) individual with disabilities parking placard(s) and ((disabled persons)) special license plates at a Washington vehicle licensing office.

(6) Is a qualifying organization issued an identification card?

No. An identification card will not be issued for an organization.

(7) When does the permanent ((disabled person)) individual with disabilities parking placard(s) issued to a qualifying organization expire?

The permanent ((disabled person)) individual with disabilities parking placard(s) expires five years from the date of issuance((-)), on the last day of the month specified on the placard. Example: If the placard is marked to expire in May ((2003)) 2008, it expires May 31, ((2003)) 2008.

(8) When are the ((disabled person)) individual with disabilities special license plates issued to a qualifying organization no longer valid?

The ((disabled person)) individual with disabilities special license plates are no longer valid when:

(a) The plates expire;

(b) The privilege expires;

(c) The vehicle is no longer being used for the purpose of transporting ((disabled persons)) individual with disabilities;

(d) The ((disabled person)) individual with disabilities special license plates have been canceled by department administrative action;

(e) The organization no longer qualifies;

(f) The organization's business license is canceled or expires;

(g) If the privilege was issued in error; or

(h) If the organization fails to return the annual report.

(9) How does a qualifying organization replace permanent ((disabled person)) individual with disabilities parking placards or ((disabled person)) special license plates if they become lost, mutilated, destroyed, or stolen?

The organization shall complete and sign a statement explaining what happened to the placards or ((disabled person)) individual with disabilities special license plates and pay replacement fees. Replacement permanent ((disabled person)) parking placards or ((disabled person)) special license plates will be issued indicating the original expiration date. This voids the previously issued permanent placards or plates. See note following subsection (10) of this section.

(10) When ((I am)) an organization is required to replace ((my disabled person)) its individual with disabilities special license plate, will ((I)) it receive the same license plate number/letter combination? Yes. Upon request and with payment of the plate retention fee in RCW 46.16.233, you will receive replacement ((disabled person)) individual with disabilities parking special license plates with the same number/letter combination as shown on the vehicle computer record.

Note: If the license plate has been reported as stolen or if the department record indicates the plate has been stolen, the same number/letter combination will not be issued. This is a law enforcement issue and is for the protection of the public.

(11) How does a qualifying organization renew ((their)) its permanent ((disabled person)) individual with disabilities parking placard?

The department will send ((a disabled person)) an individual with disabilities parking renewal notice to the qualifying organization before the privilege expires. The privilege is

renewed by submitting the completed and signed renewal notice, or a new application may be submitted in lieu of the renewal notice. Upon approval of the properly completed and signed renewal notice or application, the department will issue new placards.

(12) **When are the ~~((disabled person)) individual with disabilities~~ parking placards, issued to qualifying organizations, no longer valid?**

~~((Disabled persons)) Individual with disabilities~~ parking placards issued to an organization are no longer valid when:

- (a) The organization no longer qualifies; or
- (b) The organization's business license is canceled or expires; or
- (c) The placard was issued in error; or
- (d) A replacement has been issued; or
- (e) If the organization fails to return the annual report.

WSR 04-14-090

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed July 6, 2004, 2:37 p.m., effective August 6, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order establishes reporting and record-keeping requirements for licensed nurseries for shipments of plants from outside the state. In addition, it also establishes mandatory holding periods before plants from outside the state may be sold, distributed, transported or delivered to another location, to allow for their inspection.

Statutory Authority for Adoption: Chapters 15.13, 17.24, and 34.05 RCW.

Adopted under notice filed as WSR 04-11-111 on May 19, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 4, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 0, Repealed 0.

Date Adopted: July 6, 2004.

Valoria H. Loveland
Director

REPORTING AND HOLDING OF TREE AND SHRUB NURSERY STOCK

NEW SECTION

WAC 16-402-100 Purpose. The intrusion of nonnative, invasive plant pest species into Washington state is a significant public concern. Plant pest species include insects, nematodes, snails, plant diseases, weeds and other species which harm plants or plant products. If established, such plant pests have potential to cause harm to the state's forest, agricultural, horticultural, floricultural and apiary industries, to damage natural resources and the property of private landowners, to reduce environmental quality, and to threaten the diversity and abundance of native species. In recent years, many of these invasive plant pests have entered the state, in some cases causing significant private and public expense for monitoring, control or eradication. This rule is intended to aid in the exclusion, tracking, identification, control and/or eradication of invasive plant pests which may enter the state on or in association with horticultural plants, in order to protect public health, safety, welfare, and the environment.

NEW SECTION

WAC 16-402-110 Definitions. The following definitions apply to WAC 16-402-100 through 16-402-130:

(1) "Tree and shrub nursery stock" means woody forest and ornamental trees, shrubs and vines grown or kept for propagation, distribution or sale, including bareroot, balled and burlaped, and containerized plants, liners, budwood, seedlings and cuttings. Fruit, seeds and tissue culture plantlets are not considered tree and shrub nursery stock.

(2) "Business day" means Monday through Friday, excluding state holidays.

(3) "Receiving nursery" means any nursery dealer within Washington state, including landscape firms and greenhouses required to be licensed as nursery dealers, that acquires tree and shrub nursery stock via interstate or international shipment.

NEW SECTION

WAC 16-402-120 Notification requirement. (1) Receiving nurseries for tree and shrub nursery stock imported into Washington state from any out-of-state source are required to notify the Washington state department of agriculture (WSDA). Notification methods may include U.S. mail, telefacsimile, delivery service or e-mail to: Nursery Inspection Program Supervisor, Plant Protection Division, Washington State Department of Agriculture, 1111 Washington St. S.E., P.O. Box 42560, Olympia, WA 98504-2560; fax 360-902-2094; e-mail: nursery@agr.wa.gov.

(2) Notification must include the species of plant(s), quantities of each species, source of each shipment and the receiving nursery's contact information including telephone numbers and e-mail address (if available). Copies of regular shipping documents, such as load lists, with this information are encouraged.

(3) Notification must arrive at WSDA no later than two business days after arrival of the shipment at the receiving

nursery. Notification in advance of the shipment is encouraged.

(4) WSDA may approve alternative notification systems, if the alternative systems allow the provisions of WAC 16-401-130 to be carried out.

NEW SECTION

WAC 16-402-130 Hold requirement. (1) Tree and shrub nursery stock shipments from outside the state must be held separate from other nursery stock for a minimum of one full business day after notification is received by WSDA.

(2) WSDA will contact the nursery before or during the hold period specified in subsection (1) of this section, if the tree and shrub nursery stock must be held for inspection. WSDA will conduct the inspection as soon as practicable.

(3) Unless the receiving nursery has been instructed by WSDA to hold the shipment under subsection (2) of this section, the receiving nursery may distribute the stock before the expiration of the hold period specified in subsection (1) of this section, if the disposition of the stock is fully traceable. Retail sale to cash customers is not permitted during the hold period.

WSR 04-14-100
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed July 6, 2004, 4:23 p.m., effective August 6, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-535-1050 to correct an acronym "TMD" and to make a typographical correction in WAC 388-535-1065 (2)(a) without changing the effect of the rules. These rules are adopted under RCW 34.05.353, expedited rule making.

Citation of Existing Rules Affected by this Order: Amending WAC 388-535-1050 and 388-535-1065.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.057.

Other Authority: RCW 74.09.530.

Adopted under notice filed as WSR 04-07-142 on March 22, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: June 29, 2004.

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-19-077, filed 9/12/03, effective 10/13/03)

WAC 388-535-1050 Dental-related definitions. The following definitions and abbreviations and those found in WAC 388-500-0005 apply to this chapter. The medical assistance administration (MAA) also uses dental definitions found in the American Dental Association's Current Dental Terminology (CDT) and the American Medical Association's Physician's Current Procedural Terminology (CPT). Where there is any discrepancy between the CDT or CPT and this section, this section prevails. (CPT is a trademark of the American Medical Association.)

"Access to baby and child dentistry (ABCD)" is a program to increase access to dental services in targeted areas for Medicaid eligible infants, toddlers, and preschoolers up through the age of five. See WAC 388-535-1300 for specific information.

"American Dental Association (ADA)" is a national organization for dental professionals and dental societies.

"Adult" for the general purposes of the medical assistance administration's (MAA) dental program, means a client twenty-one years of age or older (MAA's payment structure changes at age nineteen, which affects specific program services provided to adults or children).

"Anterior" means teeth and tissue in the front of the mouth.

(1) "Mandibular anterior teeth" - incisors and canines: Permanent teeth twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, and twenty-seven; and primary teeth M, N, O, P, Q, and R.

(2) "Maxillary anterior teeth" - incisors and canines: Permanent teeth six, seven, eight, nine, ten, and eleven; and primary teeth C, D, E, G, and H.

"Asymptomatic" means having or producing no symptoms.

"Base metal" means dental alloy containing little or no precious metals.

"Behavior management" means using the assistance of one additional dental professional staff to manage the behavior of a developmentally disabled client or a client age eighteen or younger to facilitate the delivery of dental treatment.

"By report" - a method of reimbursement in which MAA determines the amount it will pay for a service when the rate for that service is not included in MAA's published fee schedules. Upon request the provider must submit a "report" which describes the nature, extent, time, effort and/or equipment necessary to deliver the service.

"Caries" means tooth decay through the enamel or decay of the root surface.

"Child" for the general purposes of the medical assistance administration's (MAA) dental program, means a client twenty years of age or younger. (MAA's payment structure

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changes at age nineteen, which affects specific program services provided to children or adults.)

"Comprehensive oral evaluation" means a thorough evaluation and recording of a client's dental and medical history to include extra-oral and intra-oral hard and soft tissues, dental caries, missing or unerupted teeth, restorations, occlusal relationships, periodontal conditions (including periodontal charting), hard and soft tissue anomalies, and oral cancer screening.

"Conscious sedation" is a drug-induced depression of consciousness during which clients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, spontaneous ventilation is adequate, and cardiovascular function is maintained.

"Core buildup" refers to building up of clinical crowns, including pins.

"Coronal" is the portion of a tooth that is covered by enamel, and is separated from the root or roots by a slightly constricted region, known as the cemento-enamel junction.

"Coronal polishing" is a procedure limited to the removal of plaque and stain from exposed tooth surfaces.

"Crown" means a restoration covering or replacing the major part, or the whole of, the clinical crown of a tooth.

"Current dental terminology (CDT)" a systematic listing of descriptive terms and identifying codes for reporting dental services and procedures performed by dental practitioners. CDT is published by the Council on Dental Benefit Programs of the American Dental Association (ADA).

"Current procedural terminology (CPT)" means a description of medical procedures and is available from the American Medical Association of Chicago, Illinois.

"Decay" is a term for caries or carious lesions and means decomposition of tooth structure.

"Deep sedation" is a drug-induced depression of consciousness during which a client cannot be easily aroused, ventilatory function may be impaired, but the client responds to repeated or painful stimulation.

"Dental general anesthesia" see **"general anesthesia."**

"Dentures" means an artificial replacement for natural teeth and adjacent tissues, and includes complete dentures, immediate dentures, overdentures, and partial dentures.

"Endodontic" means disease and injuries to the pulp requiring root canal therapy and related follow-up.

"EPSDT" means the department's early and periodic screening, diagnosis, and treatment program for clients twenty years of age and younger as described in chapter 388-534 WAC.

"Extraction" see **"simple extraction"** and **"surgical extraction."**

"Flowable composite resin" is a low viscosity resin that is used in cervical lesions and other small, low stress bearing restorations.

"Fluoride varnish or gel" means a substance containing dental fluoride, applied to teeth.

"General anesthesia" is a drug-induced loss of consciousness during which clients are not arousable even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Clients may require

assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

"High noble metal" means a dental alloy containing at least sixty percent pure gold.

"Limited oral evaluation" means an evaluation limited to a specific oral health condition or problem. Typically a client receiving this type of evaluation has a dental emergency, such as trauma or acute infection.

"Limited visual oral assessment" means a screening of the hard and soft tissues in the mouth.

"Major bone grafts" means a transplant of solid bone tissue(s).

"Medically necessary" see WAC 388-500-0005.

"Minor bone grafts" means a transplant of nonsolid bone tissue(s), such as powdered bone, buttons, or plugs.

"Noble metal" means a dental alloy containing at least twenty-five percent but less than sixty percent pure gold.

"Oral evaluation" see **"comprehensive oral evaluation."**

"Oral hygiene instruction" means instruction for home oral hygiene care, such as tooth brushing techniques or flossing.

"Oral prophylaxis" means the preventive dental procedure of scaling and polishing which includes removal of calculus, soft deposits, plaque, and stains from teeth and tooth implants.

"Partials" or **"partial dentures"** means a removable appliance replacing one or more missing teeth in one arch, and receiving its support and retention from both the underlying tissues and some or all of the remaining teeth.

"Periodic oral evaluation" means an evaluation performed on a patient of record to determine any changes in the client's dental or medical status since a previous comprehensive or periodic evaluation. This includes a periodontal charting at least once per year.

"Periodontal maintenance" means a procedure for clients who have previously been treated for periodontal disease and starts after completion of active (surgical or nonsurgical) periodontal therapy. It includes removal of the supra and subgingival microbial flora and calculus from teeth and tooth implants.

"Periodontal scaling and root planing" means instrumentation of the crown and root surfaces of the teeth or tooth implants to remove plaque, calculus, microbial flora, and bacterial toxins.

"Posterior" means teeth and tissue towards the back of the mouth.

(1) **"Mandibular posterior teeth"** - molars and premolars: Permanent teeth seventeen, eighteen, nineteen, twenty, twenty-one, twenty-eight, twenty-nine, thirty, thirty-one, and thirty-two; and primary teeth K, L, S, and T.

(2) **"Maxillary posterior teeth"** - molars and premolars: Permanent teeth one, two, three, four, five, twelve, thirteen, fourteen, fifteen, and sixteen; and primary teeth A, B, I, and J.

"Proximal" means the surface of the tooth near or next to the adjacent tooth.

"Reline" means to resurface the tissue side of a denture with new base material or soft tissue conditioner in order to achieve a more accurate fit.

"Root canal" is a portion of the pulp cavity inside the root of a tooth and the chamber within the root of the tooth that contains the pulp.

"Root canal therapy" is the treatment of disease and injuries of the pulp and associated periradicular conditions.

"Root planing" is a procedure to remove microbial flora, bacterial toxins, calculus, and diseased cementum or **dentin** on the root surfaces and pockets, including tooth implants.

"Scaling" is a procedure to remove plaque, calculus, and stain deposits from tooth surfaces, including tooth implants.

"Sealant" is a material applied to teeth to prevent dental caries.

"Simple extraction" means routine removal of tooth structure.

"Standard of care" means what reasonable and prudent practitioners would do in the same or similar circumstances.

"Surgical extraction" means removal of tooth structure with cutting of gingiva and bone, including soft tissue extractions, partial boney extractions, and complete boney extractions.

"Symptomatic" means having symptoms (e.g., pain, swelling, and infection).

"Temporomandibular joint dysfunction (TMJ/((JMD))TMD)" means an abnormal functioning of the temporomandibular joint or other areas secondary to the dysfunction.

"Therapeutic pulpotomy" means the surgical removal of a portion of the pulp (inner soft tissue of a tooth), to retain the healthy remaining pulp.

"Usual and customary" means the fee that the provider usually charges non-Medicaid customers for the same service or item. This is the maximum amount that the provider may bill MAA.

"Wisdom teeth" means teeth one, sixteen, seventeen, and thirty-two.

"Xerostomia" means a dryness of the mouth.

(i) Palliative treatment (e.g., open and drain, open and broach);

(ii) Tooth extraction; or

(iii) Root canal therapy for permanent anterior teeth only.

(b) Tooth fractures (limited to extraction).

(c) Total dental extraction prior to and because of radiation therapy for cancer of the mouth.

AMENDATORY SECTION (Amending WSR 03-19-077, filed 9/12/03, effective 10/13/03)

WAC 388-535-1065 Coverage limits for dental-related services provided under state-only funded programs. (1) Clients who receive medical care services under the following state-funded only programs receive only the limited coverage described in subsection (2) of this section:

(a) General assistance unemployable (GA-U); and

(b) Alcohol and drug abuse treatment and support act (ADATSA) (GA-W).

(2) The medical assistance administration (MAA) covers the dental-related services described and limited in this chapter for clients eligible for GA-U or GA-W only when those services are provided as part of a medical treatment for:

(a) Apical abscess verified by clinical ((~~examinations~~)) examination and radiograph(s), and treated by:



WSR 04-14-003
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed June 23, 2004, 4:25 p.m., effective June 23, 2004]

Effective Date of Rule: Immediately upon filing.

Purpose: Amending WAC 388-825-030 (6)(b)(iv) to limit the required inventory of client and agency planning (ICAP) eligibility review of persons eligible for and receiving services from the Division of Developmental Disabilities. The emergency rule will preserve the DDD services for adults eligible per the ICAP who are currently receiving DDD services until rules can be filed making the change permanent.

Citation of Existing Rules Affected by this Order: Amending WAC 388-825-030.

Statutory Authority for Adoption: RCW 71A.16.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: When the ICAP is readministered, many clients lose eligibility and services necessary for their or the community's health and safety. Emergency rules will delete the required ICAP reviews every twenty-four months of adults currently eligible under the ICAP who are receiving DDD paid services, preventing their termination from DDD eligibility and DDD services until permanent rules can be adopted. Permanent rules will include other amended ICAP review times that will better ensure transition of services.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 18, 2004.

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-16-014, filed 7/25/02, effective 8/25/02)

WAC 388-825-030 Eligibility for services. (1) A developmental disability is a condition which meets all of the following:

(a) A condition defined as mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition as described under WAC 388-825-030;

(b) Originates before the individual reaches eighteen years of age;

(c) Is expected to continue indefinitely; and

(d) Results in a substantial handicap.

(2) Mental retardation is a condition resulting in significantly subaverage general intellectual functioning as evidenced by:

(a) A diagnosis of mental retardation documented by a licensed psychologist or certified school psychologist; and

(b) A substantial handicap when the individual has an intelligence quotient score of more than two standard deviations below the mean using the Stanford-Binet, Wechsler, or Leiter International Performance Scale; and

(c) An intelligence quotient score which is not:

(i) Expected to improve with treatment, instruction, or skill acquisition above the established level; or

(ii) Attributable to mental illness or other psychiatric condition; and

(d) Meeting the requirements of developmental disability under subsection (1)(b) and (c) of this section.

(3) Cerebral palsy is a condition evidenced by:

(a) A diagnosis of cerebral palsy by a licensed physician; and

(b) A substantial handicap when, after forty-eight months of age:

(i) An individual needs direct physical assistance in two or more of the following activities:

(A) Eating;

(B) Dressing;

(C) Bathing;

(D) Toileting; or

(E) Mobility; or

(ii) An individual meets the requirements under subsection (6)(b) of this section; and

(c) Meeting the requirements under subsection (1)(b) and (c) of this section.

(4) Epilepsy is a condition evidenced by:

(a) A diagnosis of epilepsy by a board-eligible neurologist, including documentation the condition is chronic; and

(b) The presence of partially controlled or uncontrolled seizures; and

(c) A substantial handicap when the individual:

(i)(A) Requires the presence of another individual to monitor the individual's medication, and is certified by a physician to be at risk of serious brain damage/trauma without direct physical assistance from another individual; or

(B) In the case of individuals eighteen years of age or older only, requires the presence of another individual to monitor the individual's medication, and is unable to monitor the individual's own medication resulting in risk of medication toxicity or serious dosage side effects threatening the individual's life; or

(ii) Meets the requirements under subsection (6)(b) of this section; and

(d) Meeting the requirements under subsection (1)(b) and (c) of this section.

(5) Autism is a condition evidenced by:

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(a) A specific diagnosis, by a board-eligible psychiatrist or licensed clinical psychologist, of autistic disorder, a particular diagnostic subgroup of the general diagnostic category pervasive developmental disorders; and

(b) A substantial handicap shown by:

(i) The presence of significant deficits of social and communication skills and marked restriction of activities of daily living, as determined by one or more of the following persons with at least one year's experience working with autistic individuals:

- (A) Licensed psychologists;
- (B) Psychiatrists;
- (C) Social workers;
- (D) Certified communication disorder specialists;
- (E) Registered occupational therapists;
- (F) Case managers;
- (G) Certificated educators; and
- (H) Others; or

(ii) Meeting the requirements under subsection (6)(b) of this section; and

(c) Meeting the requirements under subsection (1)(b) and (c) of this section.

(6) Another neurological or other condition closely related to mental retardation, or requiring treatment similar to that required for individuals with mental retardation is a condition evidenced by:

(a)(i) Impairment of the central nervous system as diagnosed by a licensed physician; and

(ii) A substantial handicap when, after forty-eight months of age, an individual needs direct physical assistance with two or more of the following activities:

- (A) Eating;
- (B) Dressing;
- (C) Bathing;
- (D) Toileting; or
- (E) Mobility; and

(iii) An intelligence quotient score of at least one and one-half standard deviations below the mean, using the Wechsler Intelligence Scale, the Stanford-Binet, or the Leiter International Performance Scale; and

(iv) Meeting the requirements under subsection (1)(b) and (c) of this section; or

(b) A condition evidenced by:

(i) An intelligence quotient score at least one and one-half standard deviations below the mean, using the Wechsler Intelligence Scale, the Stanford-Binet, or the Leiter International Performance Scale; or

(ii) If the individual's intelligence score is higher than one and one-half standard deviations below the mean, then current or previous eligibility for participation in special education, under WAC 392-172-114 through 392-172-150, shall be demonstrated. Such participation shall not currently or at eighteen years of age be solely due to one or more of the following:

- (A) Psychiatric impairment;
- (B) Serious emotional/behavioral disturbance; or
- (C) Orthopedic impairment; and

(iii) A substantial handicap when a standard score of more than two standard deviations below the mean in each of four domains of the adaptive behavior section of the Inven-

tory for Client and Agency Planning (ICAP) is obtained, the domains identified as:

- (A) Motor skills;
- (B) Social and communication skills;
- (C) Personal living skills;
- (D) Community living skills; and

(iv) The ICAP is ~~((administered at least every twenty-four months; and))~~ readministered to eligible persons in the following circumstances:

(A) Prior to age eighteen if the child is receiving paid services from the division of developmental disabilities (DDD); or

(B) Prior to transition from foster care into adult services at age eighteen or older; or

(C) Prior to the initial authorization DDD paid services for persons not currently receiving paid services from DDD; or

(D) If the department discovers the evidence used to make the most recent eligibility determination is insufficient, in error, or fraudulent.

(v) Is not attributable to mental illness, personality and behavioral disorders, or other psychiatric conditions; and

(vi) Meets the requirements under subsection (1)(b) and (c) of this section; or

(c) A child under six years of age at risk of developmental disability, as measured by developmental assessment tools and administered by qualified professionals, showing a substantial handicap as evidenced by one of the following:

(i) A delay of at least twenty-five percent of the chronological age in one or more developmental areas between birth and twenty-four months of age; or

(ii) A delay of at least twenty-five percent of the chronological age in two or more developmental areas between twenty-five and forty-eight months of age; or

(iii) A delay of at least twenty-five percent of the chronological age in three or more developmental areas between forty-nine and seventy-two months of age; and

(iv) Such eligibility shall be subject to review at any time, but at least at thirty-six months of age and at least seventy-two months of age;

(v) Developmental areas as described in subsection (6)(c) of this section are:

- (A) Fine or gross motor skills;
- (B) Self-help skills;
- (C) Expressive and receptive communication skills, including American sign language skills;
- (D) Social skills; and
- (E) Cognitive, academic, or problem-solving skills.

(vi) Qualified professionals, as described in subsection (6)(c) of this section, include, but are not limited to, the following professionals with at least one year's experience and training in the field of child development and preferably in the area of developmental disabilities:

- (A) Licensed physicians;
- (B) Licensed psychologists;
- (C) Certified communication disorder specialists;
- (D) Registered occupational therapists;
- (E) Licensed physical therapists;
- (F) Case managers;
- (G) Registered public health nurses; and

(H) Educators.

(vii) Any standardized developmental assessment tool may be used if the tool:

(I) Is reasonably reliable and valid by professional standards; and

(II) Demonstrates the information required to make a determination of the developmental delay; or

(d) A child under six years of age having a diagnosis of Down Syndrome.

WSR 04-14-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-152—Filed June 24, 2004, 3:20 p.m., effective July 1, 2004, 5:00 a.m.]

Effective Date of Rule: July 1, 2004, 5:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-52-03000V; and amending WAC 220-52-030.

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: As described in WAC 220-56-372, this area is set-aside for experimental purposes. WDFW fishery managers and research scientists have designed a study that requires the removal of up to 40% of the harvestable razor clams from a portion of the Long Beach razor clam sanctuary. This commercial fishery is being opened to accomplish that purpose. Department staff will closely monitor this 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.

Date Adopted: June 23, 2004.

Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 220-52-03000V Razor clams. Notwithstanding the provisions of WAC 220-52-030, effective July 1, 2004, until further notice, it is unlawful to dig for or possess razor clams taken for commercial purposes from Washington waters except as provided for in this section:

(1) That portion of Razor Clam Area 1 starting from the southern boundary of the Long Beach Razor clam sanctuary as described in WAC 220-56-372, to a point 660 feet north, is open to the digging and possession of razor clams for commercial purposes during the following dates and times only:

a) From 5:00 a.m. July 1, 2004 to 9:00 a.m. July 1, 2004 only;

b) From 5:30 a.m. July 2, 2004 to 9:30 a.m. July 2, 2004 only;

c) From 6:00 a.m. July 3, 2004 to 10:00 a.m. July 3, 2004 only.

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 10:01 a.m. July 3, 2004:

WAC 220-52-03000V Razor clams.

WSR 04-14-007
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-151—Filed June 24, 2004, 4:34 p.m., effective June 28, 2004, 12:01 a.m.]

Effective Date of Rule: June 28, 2004, 12:01 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 232-48-029 [220-48-029] and 220-48-032.

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 dog-fish exists in Puget Sound. The catch is below the harvest guideline and additional harvest can be allowed. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 24, 2004.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-48-02900F Set net—Dogfish—Seasons. Notwithstanding the provisions of WAC 220-48-029:

(1) Effective 12:01 a.m. June 28, 2004, it is unlawful to take, fish for and possess dogfish and other species of bottomfish taken with dogfish set net gear for commercial purposes in the following Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas except during the seasons designated below:

(a) Areas 23C, 23D, 24A, 24B, 24D and 29 - Open until further notice

(b) Area 24C - Open until further notice, except those waters south of a line projected due east of East Point on Whidbey Island are closed until further notice

(c) Areas 25A, 25B and that portion of Area 25C west of a line from Twin Spits to the Port Gamble millstack - open until further notice.

(d) Area 26A - Open until further notice, except those waters southerly and westerly of a line between the ferry dock at Mukilteo and the ferry dock at Clinton are closed until further notice.

(e) Area 26B - Open until further notice except those waters provided for in WAC 220-20-020(4) (Shilshole Bay) are closed at all times. Those waters west of a line projected 178 degrees true from the end of the Indianola dock to the landfall on the south shore of Port Madison are closed until further notice.

(f) Area 26C - Open until further notice, except those waters north of a line projected true east of Point Bolin and those waters west of a line projected 178 degrees true from the end of the Indianola dock to the landfall on the south shore of Port Madison are closed until further notice.

(g) Area 26D - Open until further notice, except Quartermaster Harbor and those waters south of lines projected from Dash Point to Point Piner on Maury Island and from Point Dalco true west to the Kitsap Peninsula are closed until further notice.

(h) Area 28A - Open until further notice, except those waters north of a line projected true east of Fox Point on Fox Island, and east of a line projected due north from the northwest tip of Fox Island are closed until further notice.

(i) Area 27A, 27B, 27C, 28B, 28C and 28D - closed until further notice, except those waters provided for in WAC 220-20-010(6) (upper Carr Inlet).

(2) Incidental catch: It is unlawful to retain any shellfish or fish other than bottomfish. It is unlawful to retain any sixgill shark, lingcod, yelloweye rockfish or canary rockfish.

NEW SECTION

WAC 220-48-03200E Set line—Dogfish—Seasons. Notwithstanding the provisions of WAC 220-48-032,

(1) Effective 12:01 a.m. June 28, 2004 until further notice, all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas are open to set line fishing for dogfish with the following exceptions

(a) Areas 27A, 27B and 27C - Closed until further notice.

(b) That portion of Area 26C north of a line projected due east from Point Bolin to Bainbridge Island is closed all year.

(c) That portion of Area 26D south of lines projected due west of Point Dalco on Vashon Island, and from Dash Point to Point Piner on Maury Island, is closed all year.

(d) That portion of Area 28A east of a line projected due north from the northwest tip of Fox Island, and north of a line projected due east from Fox Point on Fox Island is closed all year.

(e) Those waters provided for in WAC 220-20-010(6) and 220-20-020(4).

(2) Incidental catch: It is unlawful to retain any shellfish and any fish other than bottomfish, and the cumulative weight of rockfish other than canary and yelloweye shall not exceed 30 pounds for any vessel trip in all open Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas. It is unlawful to retain any sixgill shark, lingcod, yelloweye rockfish or canary rockfish.

**WSR 04-14-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-153—Filed June 24, 2004, 4:35 p.m., effective June 28, 2004,
12:01 a.m.]

Effective Date of Rule: June 28, 2004, 12:01 a.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900S; 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 the Dalles Reservoir and its tributaries within the established harvest guidelines. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 24, 2004.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900T Exceptions to statewide rules—Columbia River sturgeon. Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. June 28, 2004, until further notice it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from Bonneville Dam upstream to John Day Dam.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. June 28, 2004:

WAC 232-28-61900S Exceptions to statewide rules—Columbia River sturgeon. (04-150)

**WSR 04-14-009
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-154—Filed June 24, 2004, 4:36 p.m., effective June 24, 2004]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-24-04000P; 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.

Date Adopted: June 24, 2004.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-24-04000P 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, 2004. The Cape Flattery and Columbia River Control Zones are closed.

(2) Landing and possession limit of 50 chinook per boat for the whole opening.

(3) Minimum size for chinook salmon is 28 inches in length. No minimum size for pink, sockeye or chum salmon. It is unlawful to possess coho salmon.

(4) Lawful troll gear is restricted to all legal troll gear with single point, single shank barbless hooks.

(5) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section, and must land and deliver within the Salmon Management and Catch Reporting Areas 1, 2, 3 or 4.

(6) 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.

(7) 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

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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.

(8) 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.

(9) 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 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, 2004:

WAC 220-24-04000P All-citizen commercial salmon troll.

WSR 04-14-013

EMERGENCY RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed June 25, 2004, 4:14 p.m., effective June 25, 2004]

Effective Date of Rule: Immediately.

Purpose: The emergency rule provides an alleged perpetrator in an adult protective services (APS) report the opportunity to request an administrative hearing to challenge a substantiated finding made on or after October 1, 2003.

A CR-102, proposed rule-making for adoption of permanent rules on this subject has also been filed as WSR 04-13-138, and public hearing is scheduled for July 27, 2004.

Citation of Existing Rules Affected by this Order: Amending WAC 338-71-0105.

Statutory Authority for Adoption: RCW 34.05.020, 74.08.090.

Other Authority: RCW 74.39.050, chapter 74.34 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: An emergency rule is necessary to preserve the due process rights of alleged perpetrators. This extension of WSR 04-06-039 is necessary while the department completes the permanent rule-making process. A proposed rule-making notice has been filed as WSR 04-13-138, and a public hearing has been scheduled for July 27, 2004.

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 1, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 1, Repealed 0.

Date Adopted: June 25, 2004.

Jim Schnellman

for Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-03-029, filed 1/11/00, effective 2/11/00)

WAC 388-71-0105 What definitions apply to adult protective services and the personal aide registry? In addition to the definitions found in chapter 74.34 RCW, the following definitions apply:

"**Basic necessities of life**" means food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

"**Finding**" means the decision made by APS after an investigation regarding alleged abuse, abandonment, neglect, self-neglect or financial exploitation of a vulnerable adult.

"**Legal representative**" means a guardian appointed under chapter 11.88 RCW or individual named in a durable power of attorney as the attorney-in-fact as defined under chapter 11.94 RCW.

"**Person or entity with a duty of care**" includes, but is not limited to, the following:

(1) A guardian appointed under chapter 11.88 RCW; or
(2) A person or entity providing the basic necessities of life to vulnerable adults where:

(a) The person or entity is employed by or on behalf of the vulnerable adult; or

(b) The person or entity voluntarily agrees to provide, or has been providing, the basic necessities of life to the vulnerable adult on a continuing basis.

"**Personal aide**" as found in RCW 74.39.007.

"Self-directed care" as found in RCW 74.39.007.

"Substantiated finding" means the determination following an investigation by APS that, based on available information, it is more likely than not that abuse, abandonment, neglect, self-neglect or financial exploitation of a vulnerable adult did occur.

NEW SECTION

WAC 388-71-0116 Can an alleged perpetrator who is not a personal aide challenge an APS finding of abuse, abandonment, neglect or financial exploitation? (1) An alleged perpetrator of abuse, abandonment, neglect or financial exploitation of a vulnerable adult, other than a personal aide, may request an administrative hearing under chapter 34.05 RCW and chapter 388-02 WAC to challenge a substantiated APS finding made on or after October 1, 2003.

(2) The alleged perpetrator must request an administrative hearing in writing within thirty days after the department mails a notice of a substantiated APS finding to the alleged perpetrator at the alleged perpetrator's last known mailing address.

(3) The right of personal aides to a hearing is described in WAC 388-71-0150 and 388-71-0155.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: June 25, 2004.

Jim Schnellman
for Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-08-021, filed 3/29/04, effective 5/28/04)

WAC 388-290-0200 What daily rates does DSHS pay for child care in a licensed or certified child care center or DSHS contracted seasonal day camps? (1) We pay the lesser of the following to a licensed or certified child care center or DSHS contracted seasonal day camp:

- (a) The provider's usual daily rate for that child; or
- (b) The DSHS maximum child care subsidy daily rate for that child as listed in the following table:

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$24.32	\$20.45	\$19.32	\$18.18
	Half-Day	\$12.16	\$10.23	\$9.66	\$9.09
<u>Spokane County</u>	<u>Full-Day</u>	<u>\$24.98</u>	<u>\$21.00</u>	<u>\$19.84</u>	<u>\$18.67</u>
	<u>Half-Day</u>	<u>\$12.49</u>	<u>\$10.51</u>	<u>\$9.92</u>	<u>\$9.34</u>
Region 2	Full-Day	\$24.55	\$20.50	\$19.00	\$16.82
	Half-Day	\$12.27	\$10.25	\$9.50	\$8.41
Region 3	Full-Day	\$32.50	\$27.09	\$23.41	\$22.73
	Half-Day	\$16.25	\$13.55	\$11.70	\$11.36
Region 4	Full-Day	\$37.82	\$31.59	\$26.50	\$23.86
	Half-Day	\$18.91	\$15.80	\$13.25	\$11.93
Region 5	Full-Day	\$27.73	\$23.86	\$21.00	\$18.64
	Half-Day	\$13.86	\$11.93	\$10.50	\$9.32
Region 6	Full-Day	\$27.27	\$23.41	\$20.45	\$20.00
	Half-Day	\$13.64	\$11.70	\$10.23	\$10.00

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WSR 04-14-014

**EMERGENCY RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 25, 2004, 4:15 p.m., effective July 1, 2004]

Effective Date of Rule: July 1, 2004.

Purpose: The Division of Child Care and Early Learning is increasing the maximum rates DSHS will pay licensed centers and family home providers in Spokane County per a legislative budget proviso. These rates will be effective July 1, 2004, through June 30, 2005.

Citation of Existing Rules Affected by this Order: Amending WAC 388-290-0200 and 388-290-0205.

Statutory Authority for Adoption: RCW 74.04.050, 74.13.085, 74.12.340.

Other Authority: Chapter 276, Laws of 2004.

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: These rules are needed to implement section (9), chapter 276, Laws of 2004, which directed the department to implement a subsidy increase for child care providers in Region 1 during fiscal year 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

(2) The child care center WAC 388-295-0010 allows providers to care for children from one month up to and including the day before their thirteenth birthday. The provider must obtain a child-specific and time-limited waiver from their child care licensor in order for a child care center to provide care for a thirteen-year-old or older child.

(3) If the center provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited waiver and the child must meet the special needs requirement according to WAC 388-290-0220.

AMENDATORY SECTION (Amending WSR 04-08-021, filed 3/29/04, effective 5/28/04)

WAC 388-290-0205 What daily rates does DSHS pay for child care in a licensed or certified family home child care? (1) We pay the lesser of the following to a licensed or certified family home child care:

- (a) The provider's usual daily rate for that child; or
- (b) The DSHS maximum child care subsidy daily rate for that child as listed in the following table.

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 11 yrs)
Region 1	Full-Day	\$20.00	\$18.00	\$18.00	\$16.00
	Half-Day	\$10.00	\$9.00	\$9.00	\$8.00
<u>Spokane County</u>	<u>Full-Day</u>	<u>\$20.54</u>	<u>\$18.49</u>	<u>\$18.49</u>	<u>\$16.43</u>
	<u>Half-Day</u>	<u>\$10.27</u>	<u>\$9.24</u>	<u>\$9.24</u>	<u>\$8.22</u>
Region 2	Full-Day	\$20.00	\$19.00	\$17.00	\$17.00
	Half-Day	\$10.00	\$9.50	\$8.50	\$8.50
Region 3	Full-Day	\$29.00	\$25.00	\$22.00	\$20.00
	Half-Day	\$14.50	\$12.50	\$11.00	\$10.00
Region 4	Full-Day	\$30.00	\$29.67	\$25.00	\$24.00
	Half-Day	\$15.00	\$14.83	\$12.50	\$12.00
Region 5	Full-Day	\$22.00	\$20.00	\$19.00	\$17.00
	Half-Day	\$11.00	\$10.00	\$9.50	\$8.50
Region 6	Full-Day	\$22.00	\$20.00	\$20.00	\$19.00
	Half-Day	\$11.00	\$10.00	\$10.00	\$9.50

(2) The family home child care WAC 388-155-010 allows providers to care for children from birth up to and including the day before their twelfth birthday. In order for a family home provider to care for a twelve-year-old or older child, the provider must obtain a child-specific and time-limited waiver from their child care licensur. If the provider has a waiver to care for a child who has reached their twelfth birthday, the payment rate is the same as subsection (1) and the five to eleven year age range column is used for comparison.

(3) If the family home provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited waiver and the child must meet the special needs requirement according to WAC 388-290-0220.

(4) We pay family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection (5) of this section). Refer to subsection (1) and the five to eleven year age range column for comparisons.

(5) We cannot pay family home child care providers to provide care for children in their care if the provider is:

- (a) The child's biological, adoptive or step-parent;
- (b) The child's nonneeded or needy relative or that relative's spouse or partner;
- (c) The child's legal guardian or the guardian's spouse or partner; or
- (d) Another adult acting in loco parentis or that adult's spouse or partner.

**WSR 04-14-024
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-156—Filed June 28, 2004, 4:15 p.m., effective June 28, 2004]

Effective Date of Rule: Immediately.
Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25500P; and amending WAC 220-56-255.

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 catch quota for Pacific halibut in this area is projected to be taken by the end of the day Saturday, July 3. The fishery will remain closed for the remainder of the season. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 28, 2004.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-56-25500Q Halibut—Seasons—Daily and possession limits. Notwithstanding the provisions of WAC 220-56-255:

- (1) Catch Record Area 2: Closed effective 11:59 p.m. July 3, 2004.
- (2) Catch Record Card Areas 3, 4 and 12: Closed
- (3) Catch Record Card Area 5: Open through August 14 - Closed 12:01 a.m. Tuesday through 11:59 p.m. Wednesday of each week during the open period.
- (4) Catch Record Card Areas 6-11 and Catch Record Card Area 13: Open through July 24 - Closed 12:01 a.m. Tuesday through 11:59 p.m. Wednesday of each week during the open period.
- (5) Daily limit one halibut. The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

REPEALER

The following section of the Washington Administrative Code is repealed:

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WAC 220-56-25500P Halibut seasons—Daily and possession limits. (04-132)

WSR 04-14-039

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 29, 2004, 4:08 p.m., effective July 1, 2004]

Effective Date of Rule: July 1, 2004.

Purpose: To amend WAC 388-400-0040 Am I eligible for benefits through the Washington Basic Food program?, 388-408-0035 Who is in my assistance unit for Basic Food and 388-450-0140 How does the income of an ineligible assistance unit member affect my eligibility and benefits for food assistance?, to be consistent with eligibility requirements for persons convicted of a drug-related felony as directed by the legislature under ESB 6411 (chapter 54, Laws of 2004).

Citation of Existing Rules Affected by this Order: Amending WAC 388-400-0040, 388-408-0035, and 388-450-0140.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Other Authority: ESB 6411 (chapter 54, Laws of 2004).

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: Without the emergency rules DSHS clients would not receive the correct food assistance benefits they are eligible to receive under ESB 6411. The rule change is also being filed for permanent adoption; the emergency filing will ensure timeliness of benefits.

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 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 3, Repealed 0.

Date Adopted: June 29, 2004.

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-05-028, filed 2/10/03, effective 4/1/03)

WAC 388-400-0040 Am I eligible for benefits through the Washington Basic Food program? The Washington Basic Food program (Basic Food) is a nutrition program to help low-income individuals and families buy food. This rule is a summary of the rules for Basic Food.

(1) When you apply for Basic Food, we decide who is in your assistance unit (AU) based on the requirements under WAC 388-408-0035.

(2) To be eligible for Basic Food benefits, your AU must meet the eligibility requirements of the most current version of the Food Stamp Act of 1977.

(3) To be eligible for **federal** Basic Food benefits, each AU member must:

(a) Be a U.S. citizen or national as described under WAC 388-424-0005; or

(b) Meet the alien status requirements for federal benefits described under WAC 388-424-0020.

(4) An AU member who is not eligible for federal benefits may be eligible for **state-funded** Basic Food benefits if they meet the requirements described under WAC 388-400-0045.

(5) To be eligible for **federal** or **state** Basic Food benefits, each AU member must:

(a) Be a resident of the state of Washington as required under WAC 388-468-0005;

(b) Meet the citizenship or alien status requirements of either WAC 388-424-0020 or 388-424-0025;

(c) Provide their Social Security number as required under WAC 388-476-0005;

(d) Provide proof of identity as required under WAC 388-490-0005;

(e) Participate in the food stamp employment and training program (FSE&T) as required under chapter 388-444 WAC; and

(f) Meet the eligibility criteria for strikers as described under WAC 388-480-0001.

(6) To be eligible for Basic Food, your AU must:

(a) Have countable income at or below gross and net income standards as described under WAC 388-478-0060; and

(b) Have countable resources at or below your AU's resource limit under WAC 388-470-0005.

(7) If your AU has income under the gross income standard, we deduct certain expenses from your income under WAC 388-450-0200 before we calculate your Basic Food benefits.

(8) If an eligible person in your AU is elderly or disabled, some rules may help your AU to be eligible for Basic Food or to get more Basic Food benefits. These include:

(a) Resources limits and excluding certain resources under chapter 388-470((-))WAC;

(b) An excess shelter deduction over the limit set for AUs without an elderly or disabled individual under WAC 388-450-0190;

(c) A deduction for out-of-pocket medical expenses for the elderly or disabled individual if they are over thirty-five dollars a month under WAC 388-450-0200; and

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- (d) Being exempt from the gross income standard under WAC 388-478-0060.
- (9) For Basic Food, **elderly** means a person who is age sixty or older;
- (10) For Basic Food, **disabled** means a person who:
 - (a) Gets SSI;
 - (b) Gets disability payments or blindness payments under Title I, II, XIV, or XVI of the Social Security Act;
 - (c) Gets disability retirement benefits from a state, local or federal government agency because of a disability considered permanent under section 221(i) of the Social Security Act;
 - (d) Gets disability benefits from the Railroad Retirement Act under sections 2 (a)(1)(iv) and (v) and:
 - (i) Meets Title XIX disability requirements; or
 - (ii) Is eligible for Medicare.
 - (e) Receives disability-related medical assistance under Title XIX of the Social Security Act;
 - (f) Is a veteran and receives disability payments based on one hundred percent disability;
 - (g) Is a spouse of a veteran and:
 - (i) Either needs an attendant or is permanently house-bound; or
 - (ii) Has a disability under section 221(i) of the Social Security Act and is eligible for death or pension payments under Title 38 of the USC.
 - (11) If a person in your AU attends an institution of higher education and does not meet the requirements to be an eligible student under WAC 388-482-0005, we do not consider this person as a member of your AU.
 - (12) If your AU lives on or near an Indian reservation and participates in a tribal food distribution program approved by Food and Nutrition Service (FNS), your AU is not eligible for Basic Food benefits.
 - (13) If an AU member is ineligible for any of the following reasons, we count the ineligible person's income as described under WAC 388-450-0140:
 - (a) Able-bodied adults without dependents who are no longer eligible under WAC 388-444-0030;
 - (b) Persons (~~convicted of a drug-related felony or~~) fleeing a felony prosecution, conviction, or confinement under WAC 388-442-0010;
 - (c) Persons who do not attest to citizenship or alien status under WAC 388-424-0005;
 - (d) Persons who are ineligible aliens under WAC 388-424-0020;
 - (e) Persons disqualified for an intentional program violation under WAC 388-446-0015;
 - (f) Persons who do not provide a Social Security number when required under WAC 388-476-0005; or
 - (g) Persons who failed to meet work requirements under chapter 388-444 WAC.

AMENDATORY SECTION (Amending WSR 04-06-025, filed 2/23/04, effective 4/1/04)

WAC 388-408-0035 Who is in my assistance unit for Basic Food? (1) For Basic Food, a person must be in your assistance unit (AU) if they live in the same home as you and:
(a) Usually buy and fix food with you; or

- (b) You provide meals for them and they pay less than a reasonable amount for meals.
- (2) If the following people live with you, they must be in your AU even if you do not usually buy and fix food together:
 - (a) Your spouse;
 - (b) Your parents if you are under age twenty-two (even if you are married);
 - (c) Your children under age twenty-two;
 - (d) The parent of a child who must be in your AU;
 - (e) A child under age eighteen who doesn't live with their parent unless the child:
 - (i) Is emancipated;
 - (ii) Gets a TANF grant in their own name; or
 - (iii) Is not financially dependent on an adult in the AU because they get and have control of income of at least the TANF payment standard under WAC 388-478-0020(2) before taxes or other withholdings.
 - (3) If you live in an institution where you may be eligible for Basic Food under WAC 388-408-0040, we decide who is in your AU as follows:
 - (a) If the facility is acting as your authorized representative under WAC 388-460-0015, we include you and anyone who must be in your AU under subsection (2) of this rule; or
 - (b) If you apply for benefits on your own, we include you, anyone who must be in your AU under subsection (2) of this rule, and other residents you choose to apply with.
 - (4) Anyone who must be in your AU under subsection (1) or (2) is an ineligible AU member if they:
 - (a) Are disqualified for an intentional program violation (IPV) under WAC 388-446-0015;
 - (b) Do not meet ABAWD work requirements under WAC 388-444-0030.
 - (c) Do not meet work requirements under WAC 388-444-0055;
 - (d) Do not provide a social security number under WAC 388-476-0005;
 - (e) Do not meet the citizenship or alien status requirements under chapter 388-424 WAC;
 - (f) Are fleeing a felony charge or violating a condition of parole or probation under WAC 388-442-0010(;
 - ~~(g) Are disqualified for a drug-related felony under WAC 388-442-0010).~~
 - (5) If your AU has an ineligible member:
 - (a) We count the ineligible member's income to your AU under WAC 388-450-0140;
 - (b) We count all the ineligible members resources to your AU; and
 - (c) We do not use the ineligible member to determine your AU's size for the maximum income amount or allotment under WAC 388-478-0060.
 - (6) If the following people live in the same home as you, you can choose if we include them in your AU:
 - (a) A permanently disabled person who is age sixty or over and cannot make their own meals if the total income of everyone else in the home (not counting the elderly and disabled person's spouse) is not more than the one hundred sixty-five percent standard under WAC 388-478-0060;
 - (b) A boarder. If you do not include a boarder in your AU, the boarder cannot get Basic Food benefits in a separate AU;

(c) A person placed in your home for foster care. If you do not include this person in your AU, they cannot get Basic Food benefits in a separate AU;

(d) Roomers; or

(e) Live-in attendants even if they buy and fix food with you.

(7) If someone in your AU is out of your home for a full issuance month, they are not eligible for benefits as a part of your AU.

(8) If someone received Basic Food or food stamps in another AU or another state, they cannot receive benefits in your AU for the same period of time with one exception. If you already received Basic Food or food stamp benefits:

(a) In another state, you are not eligible for Basic Food for the period of time covered by the benefits you received from the other state; or

(b) In another AU, you are not eligible for Basic Food in a different AU for the same period of time;

(c) In another AU, but you left the AU to live in a shelter for battered women and children under WAC 388-408-0045, you may be eligible to receive benefits in a separate AU.

(9) The following people who live in your home are not members of your AU. If they are eligible for Basic Food, they may be a separate AU:

(a) Someone who usually buys and fixes food separately from your AU if they are not required to be in your AU; or

(b) Someone who lives in a separate residence.

(10) A student who is ineligible for Basic Food under WAC 388-482-0005 is not a member of your AU.

AMENDATORY SECTION (Amending WSR 02-06-089, filed 3/1/02, effective 3/26/02)

WAC 388-450-0140 How does the income of an ineligible assistance unit member affect my eligibility and benefits for Basic Food ((assistance))? The department decides who must be in your assistance unit (AU) under WAC 388-408-0035. If an AU member is ineligible for Basic Food ((assistance)) under WAC 388-408-0035, this affects your AU's eligibility and benefits as follows:

(1) We do not count the ineligible member(s) to determine your AU size for the gross monthly income limit, net monthly income limit, or maximum allotment under WAC 388-478-0060.

(2) If an AU member is ineligible because they are disqualified for an intentional program violation (IPV), they failed to meet work requirements under chapter 388-444 WAC, or they are ineligible fleeing felons under WAC 388-442-0010:

(a) We count all of the ineligible member's gross income as a part of your AU's income; and

(b) We count all of the ineligible member's allowable expenses as part of your AU's expenses.

(3) If an AU member is an ineligible ABAWD under WAC 388-444-0030, is ineligible due to their alien status, failed to sign the application to state their citizenship or alien status, or refused to get or provide us a Social Security number:

(a) We allow the twenty percent earned income disregard for the ineligible member's earned income;

(b) We prorate the remaining income of the ineligible member among all the AU members by excluding the ineligible member's share and counting the remainder to the eligible members; and

(c) We divide the ineligible member's allowable expenses evenly among all members of the AU when the ineligible member has income.

WSR 04-14-041
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

(Filed June 29, 2004, 4:12 p.m., effective July 1, 2004)

Effective Date of Rule: July 1, 2004.

Purpose: Amend WAC 388-442-0010 How being a felon impacts your eligibility for benefits, to clarify the requirements for eligibility for persons with certain felon status, and to amend the rule to be consistent with eligibility requirements for persons convicted of a drug-related felony as directed by the legislature under ESB 6411 chapter 54, Laws of [2004].

Citation of Existing Rules Affected by this Order:
Amending WAC 388-442-0010.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Other Authority: ESB 6411 (chapter 54, Laws of 2004).

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: Without the emergency rules DSHS clients would not receive the correct food assistance benefits they are eligible to receive under ESB 6411. The proposed rule is also being filed, and the public hearing is scheduled for August 10, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 29, 2004.

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR.00-05-007, filed 2/4/00, effective 3/6/00)

WAC 388-442-0010 How does being a fleeing felon ((impacts your)) or having a conviction for a drug-related felony impact my eligibility for benefits((s))? (1) You are ((not eligible for TANF/SFA, GA and/or food assistance)) a fleeing felon if you are((:

(a)) fleeing to avoid prosecution, custody, or confinement ((after conviction of)) for a crime((s)) or an attempt to commit a crime ((which)) that is considered a felony in the place from which you are fleeing((:

(b) Violating a condition of probation or parole as determined by an administrative body or court that has the authority to make this decision).

(2) If you are a fleeing felon, or violating a condition of probation or parole as determined by an administrative body or court that has the authority to make this decision, you are not eligible for TANF/SFA ((and/or food assistance)), GA, or Basic Food benefits.

(3) You are a drug-related felon if you were convicted of a felony committed after August 21, 1996 ((involving)) that has an element of possession, use((s)) or distribution of ((an illegal drug, unless you:

(a) Were convicted only of possession or use of an illegal drug; and

(b) Were not convicted of a felony for illegal drugs within three years of the latest conviction; and

(c) Were assessed as chemically dependent by a program certified by the division of alcohol and substance abuse (DASA); and

(d) Are taking part in or have completed a rehabilitation plan consisting of chemical dependency treatment and job services.

(3)) a controlled substance as defined in Title 21 of the U.S. Code, Section 802(6). When we determine you are a drug-related felon:

(a) If you were convicted in the state of Washington, we use the Felony Offender Reporting System (FORS) to verify the date of your conviction and to determine if your conviction is for a drug-related felony.

(b) If you were convicted of a felony outside of Washington, we contact the jurisdiction where you were convicted to verify the date of your conviction and determine if the conviction is for a drug-related felony.

(c) We consider a felony conviction for attempt or conspiracy to possess, use or distribute a controlled substance as a conviction for a drug-related felony.

(4) If you are a drug-related felon, you are not eligible for TANF/SFA (cash) benefits unless you meet the conditions under subsection (5) of this section.

(5) If you are a drug-related felon, you may be eligible for TANF/SFA benefits if you meet all of the following conditions:

(a) You were convicted only of possession or use, but not distribution of a controlled substance;

(b) You were not convicted of a felony involving a controlled substance within the three-year period before your most recent conviction;

(c) You were assessed as chemically dependent by a program certified by the Division of Alcohol and Substance Abuse (DASA); and

(d) You are taking part in or have completed a DASA certified program's rehabilitation plan consisting of chemical dependency treatment and job services.

(6) If you are pregnant, but cannot get TANF/SFA because you were convicted of a drug-related felony, you can get SFA while you are pregnant if you meet all other TANF/SFA eligibility criteria under WAC 388-400-0005 or 388-400-0010.

WSR 04-14-044

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 29, 2004, 4:16 p.m., effective July 1, 2004]

Effective Date of Rule: July 1, 2004.

Purpose: This amendment to WAC 388-310-0080 WorkFirst support services, will increase the limits for the transportation allotments. This is to help eliminate or reduce the financial burden on clients participating in job search.

Citation of Existing Rules Affected by this Order: Amending WAC 388-310-0800.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.08A.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.

Reasons for this Finding: This rule change is necessary to help job search clients with the increased costs of looking for work caused by the increased price of gas. The increased cost of gas is causing a greater financial burden on clients participating in job search.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 29, 2004.

Jim Schnellman
for Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-21-154, filed 10/22/03, effective 10/27/03)

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 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 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?

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	\$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	\$250 per program year	x	x	
License/fees	\$130 per program year	x	x	
Mileage, transportation, and/or public transportation	Same rate as established by OFM for state employees	x	x	

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Type of support service	Limit	• Work	•• Safety	••• Other
Transportation allotment	Up to: \$((40)) 25 for immediate need, or \$((20)) 40 twice a month if you live within 40 miles of your local WorkFirst office, or \$((30)) 60 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 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.

fish caught in Yakama Nation tributary fisheries to be sold when those tributaries are open under Yakama Nation rules. The fishery catches are expected to remain within the allocation and guidelines of the 2001 management agreement and will be consistent with the biological opinion. Rule is consistent with action of the Columbia River compact on June 18, 2004, and June 28, 2004. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 29, 2004.

Evan Jacoby
for Jeff Koenings
Director

**WSR 04-14-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-159—Filed June 29, 2004, 4:28 p.m., effective June 30, 2004, 6:00 a.m.]

Effective Date of Rule: June 30, 2004, 6:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100X and 220-32-05100Y; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets a 2 1/2 day tribal fishery for summer chinook and sockeye. Harvestable numbers of salmon are available. Allows the sale of fish caught in platform and hook and line fishery to be sold. Allows the sale of

NEW SECTION

WAC 220-32-05100Y Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, and the Wind River, White

Salmon River, and the Klickitat River except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, shad, carp, or sturgeon under the following provisions, pursuant to lawfully enacted tribal rules:

1) Open Periods: 6:00 a.m. June 30 to 6:00 p.m. July 2, 2004.

a) Open Areas: SMCRA 1F, 1G, 1H,

b) Gear: gill nets with no mesh restriction.

2) Open Periods: Immediately through July 31, 2004.

a) Open Areas: SMCRA 1F, 1G, 1H,

b) Gear: hoop nets, dip bag nets, and rod and reel with hook and line.

3) Open Periods: Immediately through July 31, 2004, only during those days and hours when those tributaries are open under lawfully enacted Yakama Nation tribal subsistence fisheries, for enrolled Yakama Nation members.

a) Open Areas: Klickitat River and White Salmon

b) Gear: hoop nets, dip bag nets, and rod and reel with hook and line.

4) Allowable sale includes: chinook salmon, sockeye salmon, steelhead, walleye, shad, and carp. Sturgeon may not be sold. Sturgeon between 45 inches and 60 inches in length may be retained in The Dalles and John Day pools for subsistence purposes only. Fish may also be sold from Washington tributaries during the open Yakama Nation fishing periods within those areas, as described in item #2.

5) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

6) There will be no sanctuary in effect at Spring Creek National Fish Hatchery.

7) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles down-

stream from the west bank and 1/2 mile upstream from the east bank.

g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.

8) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a. Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b. Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c. Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. June 30, 2004:

WAC 220-32-05100X	Columbia River salmon seasons above Bonneville Dam. (04-148)
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The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 1, 2004:

WAC 220-32-05100Y	Columbia River salmon seasons above Bonneville Dam.
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**WSR 04-14-047
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-157—Filed June 29, 2004, 4:29 p.m., effective June 30, 2004,
11:59 p.m.]

Effective Date of Rule: June 30, 2004, 11:59 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-48-01500T; and amending WAC 220-48-015.

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 Pacific Cod quota is projected to be taken in Marine Fish-Shellfish Management and Catch Reporting Area 23C. There is insufficient time to promulgate

permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 29, 2004.

Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 220-48-01500U Beam trawl and bottom trawl seasons. Notwithstanding the provisions of WAC 220-48-015, effective 11:59 p.m. June 30, 2004, until further notice it is unlawful to fish for or possess bottomfish with beam trawl and bottom trawl gear in Marine Fish-Shellfish Management and Catch Reporting Area 23C.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. June 30, 2004:

WAC 220-48-01500T Beam trawl and bottom trawl seasons. (04-47)

**WSR 04-14-048
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-158—Filed June 29, 2004, 4:29 p.m., effective June 30, 2004, 6:00 a.m.]

Effective Date of Rule: June 30, 2004, 6:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000E; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Opens non-Indian commercial summer season fishery. Harvestable numbers of sockeye and summer chinook are available. Impacts on ESA-listed salmon and steelhead are expected to be within the guidelines of the "Interim Management Agreement for Upriver Spring Chinook, Summer Chinook, and Sockeye" and the biological opinion. Consistent with compact action of June 28, 2004. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 29, 2004.

Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 220-33-01000E Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, 220-33-030, it is unlawful for a person to take or possess salmon, shad, or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections:

- 1) AREA: SMCRA 1A, 1B and 1C upstream to the Longview Bridge.
- 2) SEASON: 6:00 a.m. to 6:00 p.m. June 30, 2004

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6:00 a.m. to 6:00 p.m. July 2, 2004

3) GEAR: 4 1/2 inch maximum mesh size. Single wall floater gill net. Net length not to exceed 175 fathoms.

4) ALLOWABLE SALE: sockeye salmon, adipose fin-clipped chinook, adipose fin-clipped coho, shad, and sturgeon.

5) MISCELLANEOUS:

a) Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

b) Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is a least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber.

c) All non-legal sturgeon, non-adipose fin-clipped chinook, non-adipose fin-clipped coho, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box.

d) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

e) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. July 2, 2004:

WAC 220-33-01000E Columbia River seasons below Bonneville.

WSR 04-14-049
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-160—Filed June 29, 2004, 4:30 p.m., effective June 30, 2004, 12:01 a.m.]

Effective Date of Rule: June 30, 2004, 12:01 a.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900M; 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: The expected run of 115,000 sockeye is strong enough to allow some recreational harvest opportunity and remain within ESA 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.

Date Adopted: June 29, 2004.

Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-61900Y Exceptions to statewide rules—2004 North of Falcon Notwithstanding the provisions of WAC 232-28-619, it is unlawful to violate the following provisions:

Columbia River

1. from Rocky Point—Tongue Point line to Bonneville Dam: Salmon: Open immediately through September 30. Minimum size is 12 inches in length. Daily limit through July 31 is six salmon, no more than two adults and release wild chinook. Daily limit beginning August 1 is six salmon, no more than two adults of which no more than one may be a chinook and release chum and wild coho.

2. From Bonneville Dam upstream to the Highway 395 Bridge at Pasco. Salmon: Open immediately through September 30. Minimum size is 12 inches in length. Daily limit is six salmon, no more than two adults. Release wild chinook through July 31. Beginning August 1, release chum.

3. from Highway 395 bridge at Pasco upstream to Priest Rapids Dam: Salmon: Open immediately through July 31, and August 16 through September 30, daily limit of six salmon of which no more than two adults. Minimum size is 12 inches in length.

4. from Priest Rapids Dam to Wells Dam: Salmon: Open July 16 until further notice. Daily limit is six salmon, no more than 2 adults. Release coho and sockeye. Minimum size 12 inches in length.

5. from Wells Dam to Chief Joseph Dam: Salmon: Open July 16 until further notice, from Highway 173 bridge at Brewster to Highway 17 bridge at Bridgeport. Daily limit is six salmon, no more than 2 adults. Release coho and sockeye. Minimum size 12 inches in length.

Cowlitz River (Cowlitz/Lewis County)

1. from boundary markers at mouth to Mayfield Dam: Salmon: Open immediately until further notice. Daily limit is six salmon, no more than 2 adults. Release wild coho, and chum. Release wild chinook through July 31. Minimum size 12 inches in length.

2. from posted PUD sign on Peters Road to mouth of Ohanepecosh River and mouth of Muddy Fork: Salmon: Open immediately until further notice. Daily limit is six salmon, no more than 2 adults. Release wild coho. Release wild chinook through July 31. Minimum size 12 inches in length.

Kalama River (Cowlitz County), from mouth upstream to one thousand feet below fishway at upper salmon hatchery: Salmon: Open immediately until further notice except during the period the temporary fish rack is installed. Daily limit is six salmon, no more than 2 adults. Release wild coho and chum. Release wild chinook through July 31. Minimum size 12 inches in length. Waters from Modrow Bridge downstream to one thousand five hundred feet below the rack are closed waters.

Lewis River (Clark. Co.), from boundary markers at mouth to mouth of the East Fork: Salmon: Open immediately until further notice, daily limit 6 fish, of which no more than 2 may be adults. Release wild Coho, and Chum. Release wild Chinook through July 31.

Lewis River, North Fork (Cowlitz Co.) from mouth to Colvin Creek:

1. All species: Effective immediately until further notice, lawful to fish from a floating device.

2. Salmon: Open immediately until further notice, daily limit 6 fish, of which no more than 2 may be adults. Release wild Coho, and Chum. Release wild Chinook through July 31.

Lewis River, North Fork (Cowlitz Co.) from Colvin Creek to overhead powerlines below Merwin Dam: Salmon: Open immediately until further notice, daily limit 6 fish, of which no more than 2 may be adults. Release wild Coho, and Chum. Release wild Chinook through July 31.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. June 30, 2004:

WAC 232-28-61900M Exceptions to statewide rules—2004 North of Falcon. (04-126)

**WSR 04-14-054
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Division of Child Support)**

[Filed June 30, 2004, 11:44 a.m., effective June 30, 2004]

Effective Date of Rule: Immediately.

Purpose: The Division of Child Support (DCS) is adopting new rules and amending existing rules to establish the procedures for enforcing medical support obligations using the National Medical Support Notice. There have been no changes from the emergency rules adopted under WSR 04-07-057 effective March 22, 2004. At the same time, DCS is beginning the regular rule-making process for these rules as well. DCS has filed the CR-102 as WSR 04-13-139 and the rule-making hearing is set for August 10, 2004.

AMENDED RULES: WAC 388-14A-1020 What definitions apply to the rules regarding child support enforcement?, 388-14A-4040 DCS can serve some collection actions by electronic service, 388-14A-4100 Can the division of child support make me provide health insurance for my children?, 388-14A-4110 If my support order requires me to provide health insurance for my children, what do I have to do?, 388-14A-4120 DCS (~~services a~~) uses the National Medical Support Notice (of enrollment) to enforce an obligation to provide health insurance coverage, and 388-14A-4130 What must (~~an employer or union who receives a notice of enrollment do~~) a plan administrator do after receiving a National Medical Support Notice from the division of child support?

NEW RULES: WAC 388-14A-4121 Can a Washington employer assume that every National Medical Support Notice that the employer receives is from the division of child support?, 388-14A-4122 What kind of information is included in the National Medical Support Notice?, 388-14A-4123 What can happen if the employer fails to comply with the terms of the National Medical Support Notice?, 388-14A-4124 Who are the parties involved with National Medical Support Notice?, 388-14A-4125 What must an employer do after receiving a National Medical Support Notice?, 388-14A-4126 What kind of help is available for an employer or plan administrator who has questions about the National Medical Support Notice?, 388-14A-4135 What must the plan administrator do when the noncustodial parent has health insurance but the children are not included in the coverage?, 388-14A-4140 What must the plan administrator do when the noncustodial parent is eligible for health insurance but is not yet enrolled?, 388-14A-4143 What must the plan administrator do when the employer provides health insurance but the noncustodial parent is not yet eligible for coverage?, 388-14A-4145 What must the plan administrator do when the insurance plan in which the noncustodial parent is enrolled does not provide coverage which is accessible to the children?, 388-14A-4150 What must the plan administrator do when the noncustodial parent has more than one family?, 388-14A-4160 Are there any limits on the amount a noncustodial parent may be required to pay for health insurance premiums?, 388-14A-4165 What happens when a noncustodial parent does not earn enough to pay child support plus the health insurance premium?, 388-14A-4170 How long does a

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National Medical Support Notice or other notice of enrollment remain in effect?, and 388-14A-4175 Is an employer obligated to notify the division of child support when insurance coverage for the children ends?

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-1020, 388-14A-4040, 388-14A-4100, 388-14A-4110, 388-14A-4120, and 388-14A-4130.

Statutory Authority for Adoption: RCW 74.08.090, 74.20A.310.

Other Authority: RCW 26.18.170, 42 U.S.C. 666 (a)(19), 45 C.F.R. 303.31 and 303.32.

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: DCS is required to use the National Medical Support Notice to enforce medical support obligations under the Child Support Incentives Act of 1998, 42 U.S.C. 666 (a)(19); failure to do so would result in a state plan violation and could jeopardize federal funding for the Washington state child support program.

Number of Sections Adopted in Order to Comply with Federal Statute: New 16, Amended 6, 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 16, Amended 6, Repealed 0.

Date Adopted: June 30, 2004.

Jim Schnellman
for 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 04-15 issue of the Register.

WSR 04-14-057
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-161—Filed June 30, 2004, 2:36 p.m., effective July 1, 2004, 12:01 a.m.]

Effective Date of Rule: July 1, 2004, 12:01 a.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: 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: Summer run steelhead returns to the Cowlitz and North Fork Lewis rivers have been strong and hatchery escapement goals on both rivers are expected to be met. The strong returns provide opportunity to liberalize the daily bag limit in these areas to allow increased harvest of hatchery summer run steelhead. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 30, 2004.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900W Exceptions to statewide rules—Cowlitz River, North Fork Lewis River. Notwithstanding the provisions of WAC 232-28-619:

(1) Cowlitz River (Cowlitz County)

Effective July 1 until further notice, up to three hatchery steelhead may be retained as part of the trout daily limit in those waters of the Cowlitz River from the highway 4 Bridge at Kelso upstream to 400 feet or posted markers below the barrier dam.

(2) North Fork Lewis River (Clark County)

(a) Effective July 1 until further notice, up to three hatchery steelhead may be retained as part of the trout daily limit in those waters downstream of Colvin Creek.

(b) Effective July 1 through September 30, 2004, up to three hatchery steelhead may be retained as part of the trout daily limit in those waters upstream of Colvin Creek.

WSR 04-14-058
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-162—Filed June 30, 2004, 2:38 p.m., effective June 30, 2004]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100U; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.12.047.

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 2004 state/tribal Puget Sound shrimp harvest management plans requires adoption of harvest seasons, harvest reporting areas, and the prohibition on night time fishing contained in this emergency rule. Commercial shrimp quotas have been taken in the catch areas closed in this rule. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 30, 2004.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-52-05100V Puget Sound shrimp pot and beam trawl fishery—Season. Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound, except as provided for in this section:

(1) Shrimp pot gear:

(a) Effective immediately until further notice, all waters of Crustacean Management Regions 1, 2, 3, 4 and 6, are open to harvest of all shrimp species, except as provided below:

(i) It is unlawful to harvest shrimp for commercial purposes in Shrimp Management Area 1B and Marine Fish-Shellfish Catch and Reporting Areas 23A-C (central), 23A-E (east), and 26B-1.

(ii) It is unlawful to harvest spot shrimp for commercial purposes in Marine Fish-Shellfish Catch and Reporting Areas 23C and 25D.

(iii) Marine Fish/Shellfish Management and Catch Reporting Area 25D (Port Townsend Bay) is closed south of

the 48.06' North latitude line, north of the 48.04' North latitude line and east of the 122.46' west longitude line.

(b) Effective immediately, until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week, or to exceed 300 pounds per week from Crustacean Management Regions 2, 4 and 6, except, any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Catch and Reporting Area 29, 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 the following additional information.

(i) The number of pots being moved to a new area and the Marine Fish-Shellfish Management and Catch Reporting Area that the pots are being 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(e) above.

(e) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Marine Fish-Shellfish Catch and Reporting Area 23A is divided into four Subareas: 23A-E (east) is those waters of Catch Area 23A north of a line projected 48.22.50' °N latitude east of a line projected 122.57°W longitude. 23A-W (west) is those waters of Catch Area 23A north of a line projected 48.22.50' °N latitude and west of a line projected 122.57°W longitude. 23A-C (central) is those waters of Catch Area 23A south of a line projected 48.22.50' °N latitude and east of a line projected 335 degrees true from the Dungeness lighthouse. 23A-S (south) is those waters of Catch Area 23A west of a line projected 335 degrees true from the Dungeness lighthouse.

(2) Shrimp beam trawl gear:

(a) Crustacean Management Region 3 outside of the shrimp districts: Open immediately, until further notice.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Areas 20B and 22A within Shrimp Management Area 1B: Open immediately, until further notice.

(c) It is unlawful to set or pull shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

(3) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100U Puget Sound shrimp pot and beam trawl fishery season. (04-147)

**WSR 04-14-059
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-163—Filed June 30, 2004, 2:39 p.m., effective July 4, 2004, 12:01 a.m.]

Effective Date of Rule: July 4, 2004, 12:01 a.m.
Purpose: Amend personal use rules.
Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900U; 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: The harvest guideline of 15,000 sturgeon for this area is expected to be achieved prior to the original closing date of July 24, 2004. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 30, 2004.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900X Exceptions to statewide rules—Sturgeon. Notwithstanding the provisions of WAC 232-28-619:

(1) Effective 12:01 a.m. July 4 until further notice, it is unlawful to retain sturgeon in those waters of the Columbia River and tributaries from the Wauna powerlines downstream to the mouth.

(2) Open to fishing for sturgeon through July 31, 2004, Thursdays, Fridays and Saturdays only in those waters from Beacon Rock to the Light 85 Line.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. July 4, 2004:

WAC 232-28-61900U Exception to statewide rules—Sturgeon. (04-67)

**WSR 04-14-091
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-164—Filed July 6, 2004, 2:57 p.m., effective July 6, 2004]

Effective Date of Rule: Immediately.
Purpose: Amend personal use rules.
Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900T; 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: The cut-off date for retention of sturgeon was adopted because Washington and Oregon fish managers estimate that the harvest guideline of one hundred sixty-five fish will be achieved by July 12. 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-

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ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 1, 2004.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900Z Exceptions to statewide rules—Columbia River sturgeon. Notwithstanding the provisions of WAC 232-28-619:

(1) Effective immediately until further notice, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from Bonneville Dam upstream to John Day Dam.

(2) Effective July 12, 2004 until further notice, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from John Day Dam upstream to McNary Dam.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900T Exceptions to statewide rules—Columbia River sturgeon. (04-153)

**WSR 04-14-092
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-165—Filed July 6, 2004, 2:58 p.m., effective July 6, 2004]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-24-04000Q; 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.

Date Adopted: July 6, 2004.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-24-04000Q 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 July 8 through July 12 and July 16 through July 19, 2004.

(2) The Cape Flattery and Columbia River Control Zones are closed.

(3) Landing and possession limit of 100 chinook per boat for the whole opening.

(4) Minimum size for chinook salmon is 28 inches in length. Minimum size for coho is 16 inches in length and all coho must have a healed adipose fin clip. No minimum size for pink, sockeye or chum salmon.

(5) Lawful troll gear is restricted to 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 and deliver within the Salmon Management and Catch Reporting Areas 1, 2, 3 or 4.

(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

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and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(9) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon, and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(10) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279 or faxing the information to (360) 902-2949 or E-mailing to trollfishtickets@dfw.wa.gov. Report the dealer name, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species. The total number for each species and the total weight for each species including halibut.

Reviser's note: The typographical 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 20, 2004:

WAC 220-24-04000Q All-citizen commercial salmon troll.

WSR 04-14-093
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-166—Filed July 6, 2004, 2:59 p.m., effective July 12, 2004, 6:00 a.m.]

Effective Date of Rule: July 12, 2004, 6:00 a.m.

Purpose: Amend commercial fishing regulations.

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.

Date Adopted: July 6, 2004.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-52-07100H 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 12, 2004 until further notice, sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1, 2, 3 and 5 on Monday, Tuesday and Wednesday of each week.

(2) It is unlawful to dive for any purpose from a commercially licensed sea urchin or sea cucumber fishing vessel on Saturdays and Sundays of each week.

WSR 04-14-103
EMERGENCY RULES
DEPARTMENT OF AGRICULTURE

[Filed July 7, 2004, 10:55 a.m., effective July 7, 2004]

Effective Date of Rule: Immediately.

Purpose: This rule-making order adds WAC 16-402-100, 16-402-110, 16-402-120, and 16-402-130 to chapter 16-402 WAC by establishing reporting and record-keeping requirements for nursery dealers for shipments of tree and shrub nursery stock from outside the state. It also establishes mandatory holding periods before tree and shrub nursery stock from outside the state may be sold, distributed, or transported or delivered to another location, to allow for inspection for plant pests.

Statutory Authority for Adoption: Chapters 15.13 and 17.24 RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The intrusion into this state of nonnative, invasive plant pest species on or in association

with horticultural plants is of grave and immediate concern. Several significant nonnative, invasive plant pests, including citrus longhorned beetle, the pathogen (*Phytophthora* [*Phytophthora*] ramorum) which causes sudden oak death disease, and Japanese beetle entered the state within the last three years via this pathway. The risk of introduction appears to be increasing dramatically. An identical emergency rule was adopted on March 10, 2004, and an identical permanent rule was adopted on July 6, 2004. The intent of this filing is to provide continuity during the time between the expiration of the earlier emergency order and the implementation date of 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 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 4, 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.

Date Adopted: July 7, 2004.

Valoria H. Loveland
Director

REPORTING AND HOLDING OF TREE AND SHRUB NURSERY STOCK

NEW SECTION

WAC 16-402-100 Purpose. The intrusion of nonnative, invasive plant pest species into Washington state is a significant public concern. Plant pest species include insects, nematodes, snails, plant diseases, weeds and other species which harm plants or plant products. If established, such plant pests have potential to cause harm to the state's forest, agricultural, horticultural, floricultural and apiary industries, to damage natural resources and the property of private landowners, to reduce environmental quality, and to threaten the diversity and abundance of native species. In recent years, many of these invasive plant pests have entered the state, in some cases causing significant private and public expense for monitoring, control or eradication. This rule is intended to aid in the exclusion, tracking, identification, control and/or eradication of invasive plant pests which may enter the state on or in association with horticultural plants, in order to protect public health, safety, welfare, and the environment.

NEW SECTION

WAC 16-402-110 Definitions. The following definitions apply to WAC 16-402-100 through 16-402-130:

(1) "Tree and shrub nursery stock" means woody forest and ornamental trees, shrubs and vines grown or kept for propagation, distribution or sale, including bareroot, balled and burlaped, and containerized plants, liners, budwood, seedlings and cuttings. Fruit, seeds and tissue culture plantlets are not considered tree and shrub nursery stock.

(2) "Business day" means Monday through Friday, excluding state holidays.

(3) "Receiving nursery" means any nursery dealer within Washington state, including landscape firms and greenhouses required to be licensed as nursery dealers, that acquires tree and shrub nursery stock via interstate or international shipment.

NEW SECTION

WAC 16-402-120 Notification requirement. (1) Receiving nurseries for tree and shrub nursery stock imported into Washington state from any out-of-state source are required to notify the Washington state department of agriculture (WSDA). Notification methods may include U.S. mail, telefacsimile, delivery service or e-mail to: Nursery Inspection Program Supervisor, Plant Protection Division, Washington State Department of Agriculture, 1111 Washington St. S.E., P.O. Box 42560, Olympia, WA 98504-2560; fax 360-902-2094; e-mail: nursery@agr.wa.gov.

(2) Notification must include the species of plant(s), quantities of each species, source of each shipment and the receiving nursery's contact information including telephone numbers and e-mail address (if available). Copies of regular shipping documents, such as load lists, with this information are encouraged.

(3) Notification must arrive at WSDA no later than two business days after arrival of the shipment at the receiving nursery. Notification in advance of the shipment is encouraged.

(4) WSDA may approve alternative notification systems, if the alternative systems allow the provisions of WAC 16-401-130 to be carried out.

NEW SECTION

WAC 16-402-130 Hold requirement. (1) Tree and shrub nursery stock shipments from outside the state must be held separate from other nursery stock for a minimum of one full business day after notification is received by WSDA.

(2) WSDA will contact the nursery before or during the hold period specified in subsection (1) of this section, if the tree and shrub nursery stock must be held for inspection. WSDA will conduct the inspection as soon as practicable.

(3) Unless the receiving nursery has been instructed by WSDA to hold the shipment under subsection (2) of this section, the receiving nursery may distribute the stock before the expiration of the hold period specified in subsection (1) of this section, if the disposition of the stock is fully traceable. Retail sale to cash customers is not permitted during the hold period.

WSR 04-14-001**AGENDA****DEPARTMENT OF
FISH AND WILDLIFE**

[Filed June 23, 2004, 4:14 p.m.]

Following is the semi-annual rule agenda for the Department of Fish and Wildlife for filing in the Washington State Register as per RCW 34.05.314.

July 20, 2004

- (1) Adopt lower Columbia River sturgeon rule
CR-105 filed May 18, 2004, WSR 04-11-069
- (2) Adopt sport freshwater salmon rules
CR-105 filed May 19, 2004, WSR 04-11-120
- (3) Adopt coastal harbor commercial salmon rules
CR-105 filed May 19, 2004, WSR 04-11-109
- (4) Adopt sport saltwater salmon rules
CR-105 filed May 18, 2004, WSR 04-11-079

August 3, 2004

- (1) Adopt Puget Sound commercial salmon rules
CR-105 filed June 2, 2004, WSR 04-12-129
- (2) Adopt "wild fish" general definition
CR-105 filed June 1, 2004, WSR 04-12-073

August 6-7, 2004

- (1) Hearing and possible adoption on Hood Canal closure
CR-102 filed June 3, 2004, WSR 04-13-005
- (2) Hearing and possible adoption on shellfish names and tanner crab sport limit
CR-102 filed June 7, 2004, WSR 04-13-023
- (3) Hearing and possible adoption on sea urchin and sea cucumber rules
CR-102 filed June 9, 2004, WSR 04-13-033
- (4) Hearing and possible adoption on license dealer fees
CR-102 filed June 14, 2004, WSR 04-13-061
- (5) Hearing and possible repeal of wildlife taken on reservation rule
CR-102 filed June 10, 2004, WSR 04-13-038
- (6) Hearing and possible adoption of catch accounting reporting rules
CR-102 filed June 23, 2004, WSR 04-13-193
- (7) Hearing and possible adoption of herring reporting rules
CR-102 filed June 17, 2004, WSR 04-13-163
- (8) Hearing and possible adoption of oiled wildlife rules
CR-102 filed June 23, 2004, WSR 04-13-167
- (9) Hearing and possible repeal of stream obstruction hearing procedures
CR-102 filed June 22, 2004, WSR 04-13-141
- (10) Hearing and possible adoption of cougar permit rules
CR-102s filed June 23, 2004, WSR 04-13-165, 04-13-169, and 04-13-170
- (11) Hearing and possible adoption of trapping rules
CR-102 filed June 23, 2004, WSR 04-13-166
- (12) Hearing and possible adoption of migratory waterfowl seasons
CR-102 filed June 23, 2004, WSR 04-13-171

(13) Hearing and possible adoption of game reserve and waterfowl closures

CR-102 filed June 23, 2004, WSR 04-13-168

August 28, 2004

Hearing and possible adoption of wild steelhead rules
CR-102 filed June 18, 2004, WSR 04-13-094

November 5-6, 2004

- (1) Hearing on 2005-2006 sport rules
CR-101 to be filed by August 4, 2004, CR-102 by September 22, 2004
- (2) Hearing and possible adoption of forest practices and hydraulics rules
CR-102 filed April 5, 2004, WSR 04-08-064

December 3-4, 2004

- (1) Adoption of 2005-2006 sport rules
- (2) Hearing and possible adoption of wild shellfish rules
CR-101 filed March 12, 2003, WSR 03-07-033
- (3) Hearing and possible adoption of Denman Island disease rules
CR-102 filed February 17, 2004, WSR 04-05-069

Additions and deletions may be may [made] to this agenda.

Evan Jacoby
Rules Coordinator

WSR 04-14-002
NOTICE OF PUBLIC MEETINGS
FISH AND WILDLIFE
COMMISSION

[Memorandum—June 23, 2004]

WASHINGTON FISH AND WILDLIFE COMMISSION
PUBLIC HEARING

TIME: 10:00 a.m. - 2:00* p.m. (**approximate adjournment time*)
DATE: August 28, 2004
PLACE: Kitsap Conference Center
100 Washington Avenue
Bremerton, WA
Website <http://www.kitsapconferencecenter.com>

The Washington Fish and Wildlife Commission has scheduled a public meeting to receive testimony regarding possible amendments to Washington Administrative Code (WAC) rules related to the two-year statewide moratorium on wild steelhead retention: WAC 232-12-619 Permanent Washington statewide game fish rules and 232-28-619 Washington food fish and game fish—Freshwater exceptions to statewide rules.

This public hearing provides interested persons the opportunity to make oral comments to the commission on whether the wide steelhead retention moratorium should be rescinded, amended in some fashion, or kept in place.

The Fish and Wildlife Department filed proposed rule amendments with the Office of the Code Reviser on June 18, 2004, for publication in the Washington State Register (WSR 04-13-094). The proposals may be viewed by using the search tool at the following webpage <http://search.leg.wa.gov/>.

People who are interested in providing their views on the moratorium and/or possible rule amendments but are unable to attend the August 28 hearing should send written comments to the commission at the Washington Fish and Wildlife Commission, 600 Capitol Way North, Olympia, WA 98501-1091.

Comments may also be submitted via e-mail to commission@dfw.wa.gov.

Only those letters and e-mail received by the August 25, 2004, deadline will be accepted for consideration. Oral testimony may be given only at the August 28 hearing, and each person will be limited to three minutes maximum. **No further input will be accepted for consideration after the August 28, hearing.**

If you plan to provide comments at the hearing, the commission encourages you to bring eleven copies with you to the hearing. You may also presubmit comments electronically to the above e-mail address.

Final consideration of the proposed rule amendments is scheduled for the commission's September 2, 2004, meeting, which takes place via telephone conference call. The public may listen to the discussion via speakerphone at the commission office. No public input will be accepted during the call.

Contact Susan Yeager in the commission office at (360) 902-2267 for further information, and to identify special accommodation needs for attendance at the August 28 hearing.

WSR 04-14-005

NOTICE OF PUBLIC MEETINGS EASTERN WASHINGTON UNIVERSITY

[Memorandum—June 24, 2004]

EASTERN WASHINGTON UNIVERSITY BOARD OF TRUSTEES

June 28, 2004

Executive Session at 12:00 p.m.

Open Public Session at 1:00 p.m.

TAW 215

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 04-14-010

AGENDA

FOREST PRACTICES BOARD

[Filed June 25, 2004, 9:56 a.m.]

Rule Development Agenda July - December 2004

The Forest Practices Board's mandate is to adopt rules to protect the state's public resources while maintaining a viable forest products industry. The following rule proposals are under development or are anticipated during this time period.

1. Cultural Resources: The board will consider initiating rule making on the TFW Cultural Resources Committee's rule proposal related to a cultural watershed analysis module.

2. Road Maintenance and Abandonment Plans: Permanent rule language is being developed to implement changes to the small forest landowner road maintenance and abandonment planning requirements contained in 2SHB 1095 passed by the 2003 legislature.

3. Editorial and Minor Rule Changes: The board will consider initiating rule making at the August 2004, meeting. The rules would reflect minor editorial and clarification changes.

4. Other Legislative Mandated Changes: The board will consider initiating rule making on legislation passed during the 1997, 2001, 2002, 2003 and 2004 sessions. These changes pertain to Christmas trees, forest land definition, Environment and Land Use Hearings Board, small forest landowner tax identification and forest practices within urban growth areas.

5. Upland Wildlife: The board with the Department of Fish and Wildlife is conducting a comprehensive review of the forest practices rules and science for wildlife protection and development of cooperative management planning processes. This and new species listing and designation of critical habitat may result in a rule proposal.

6. Salmonid Adaptive Management: The Forests and Fish Policy Committee will be reviewing results from scientific projects for possible rule modifications.

Contact Person: Patricia Anderson, FPB Rules Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1413, fax (360) 902-1428, e-mail patricia.anderson@wadnr.gov.

WSR 04-14-011

NOTICE OF PUBLIC MEETINGS SHORELINE COMMUNITY COLLEGE

[Memorandum—June 23, 2004]

Please accept this letter as notice that I am retiring and Joanne Warner will serve as interim vice-president for human resources/employee relations until the end of December 2004, by which time we are hopeful that the position will be filled on a permanent basis. Consequently, please change the rules coordinator for Shoreline Community College to Joanne Warner, effective June 25, 2004.

If you have questions regarding this information, please contact Joanne at (206) 546-4764, or by e-mail at jwarner@shoreline.edu, or Diana before June 30, 2004, at (206) 546-5880 or by e-mail at dpenley@shoreline.edu.

Paulette Fleming
Vice-President
Office of Human Resources/
Employee Relations

WSR 04-14-012

AGENDA

UTILITIES AND TRANSPORTATION
COMMISSION

[Filed June 25, 2004, 1:33 p.m.]

The Washington Utilities and Transportation Commission submits its semi-annual 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
Semi-annual Rules Development Agenda
(July 1, 2004 - December 31, 2004)**

This report is the Utilities and Transportation Commission's semi-annual 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	
Chapters 480-70 480-73 480-75 480-90 480-92 480-100 480-110 480-120 480-121 480-140 480-146 WAC	Rule on reporting transactions between regulated companies and subsidiaries	Fred Ottavelli Regulatory Services (360) 664-1297	10/2/02	7/28/04	10/13/04	Consider establishing rules that would require reporting of transactions between regulated companies and their subsidiaries.
Chapters 480-30 480-40 WAC	Bus rules	Bonnie Allen Transportation (360) 664-1226	5/28/02	10/13/04	12/10/04	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	6/30/04	10/27/04	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 Energy Section (360) 664-1310	4/15/03	9/22/04	12/10/04	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 Energy Section (360) 664-1310	4/15/03	9/22/04	12/10/04	Review of rules as a result of Governor Locke's Executive Order 97-02.
Chapter 480-11 WAC	SEPA procedures	Not assigned	9/2004 (estimated)	To be determined	To be determined	Reference Department of Ecology rules; identify commission's responsible official.
Chapters 480-120 480-80 480-122 WAC	Update to telecom rules	Sharyn Bate Telecom. Section (360) 664-1295	1/21/04 1/27/04	7/28/04	9/22/04	Consider minor changes that have been identified since the rule underwent a major revision in 2002.
Chapter 480-15 WAC	Household goods	Not assigned	8/2004	To be determined	To be determined	Update tariff fees.
Chapter 480-51 WAC	Commercial ferries	Not assigned	10/2004	To be determined	To be determined	Review of rules as a result of Governor Locke's Executive Order 97-02

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
WAC 480-93-999 480-75-999	Adoption by reference	Lindsay Marquez Pipeline Safety (360) 664-1302	On hold pending federal rule making			Incorporate new and amended federal rules by reference per 49 C.F.R.
WAC 480-62-218	Point protection for train movements	Mike Rowswell Rail Safety (360) 664-1265	2/18/04	7/21/04	9/29/04	Consider adopting rules relating to point protection for train movements.
WAC 480-110-255	Review of jurisdictional provisions	Danny Kermod Water Section (360) 664-1253	4/7/04	8/11/04	9/22/04	Consider raising jurisdictional threshold for water companies
999 Sections in various chapters of Title 480 WAC	Adoption by reference	Not assigned	N/A	To be determined	To be determined	Update of internal WAC references.
WAC 480-60-035	Walkways	Mike Rowswell Rail Safety (360) 664-1205	Pending petition on which commission has not yet ruled	To be determined	To be determined	Consider requiring material that is 3/4" or less in size for switching leads.

D. Wilhelmi
for Carole J. Washburn
Executive Secretary

WSR 04-14-020
NOTICE OF PUBLIC MEETINGS
CONSERVATION COMMISSION
[Memorandum—June 23, 2004]

WAC 135-04-020 provides that the Washington State Conservation Commission shall hold regular bimonthly meetings on the third Thursday of the month at various locations in the state of Washington. The schedule for 2004 was adopted by the Conservation Commission at its September 19, 2003, meeting held in Okanogan, Washington.

The following change is made to the May 2004 meeting schedule for the Conservation Commission:

July 15, 2004 8:30 a.m.-4:00 p.m. Best Western
Regular CC Meeting Cotton Tree Inn
2300 Market Place
Mount Vernon, WA

Locations may change, please contact the Conservation Commission prior to the scheduled meeting at (360) 407-6200.

WSR 04-14-021
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
[Memorandum—June 24, 2004]

On Monday, June 28, 2004, through Wednesday, June 30, 2004, the Eastern Washington University board of trustees will hold meetings as outlined below.

June 28, 2004
10:00 - 11:00 Business & Finance Committee Meeting, PUB 261 (no final action will be taken at this committee meeting).

11:00 - 12:00 Student Affairs Committee Meeting, PUB 263 (no final action will be taken at this committee meeting).

12:00 - 1:00 BOT Executive Session, TAW 215A.

1:00 - 4:00 BOT Open Public Meeting, TAW 215A B&C (to discuss/approve the academic strategic plan, the emergency revision to the sexual harassment complaint procedure, the comprehensive health and wellness fee, the electrical engineering degree information, the 2005-07 capital budget and consolidated higher education capital list, and the FY 2005 operating budget).

5:00 - 8:00 BOT Executive Session, TAW 215A.

June 29, 2004
8:00 - 5:00 BOT Retreat at Mukogawa/Ft. Wright Institute, 4000 Randolph Road, Spokane, WA.

6:00 - 9:00 BOT Dinner at Manito Golf and Country Club (social only, no business will be conducted).

June 30, 2004
8:00 - 11:00 BOT Retreat at Mukogawa/Ft. Wright Institute.

11:00 - 2:45 BOT Executive Session at Mukogawa/Ft. Wright Institute.

2:45 - 3:00 BOT Open Public Meeting at Mukogawa/Ft. Wright Institute.

MISC.

WSR 04-14-022

AGENDA

**OFFICE OF
FINANCIAL MANAGEMENT**

[Filed June 28, 2004, 11:20 a.m.]

**Office of Financial Management
Semiannual Agenda for Rules Under Development
(per RCW 34.05.314)
July 2004 - December 2004**

1. A recent review of chapter 82-48 WAC, Disclosure of public records, revealed that since the chapter was last amended in September 1976, it contains technical errors (for example the agency name is incorrect) and is no longer consistent with agency practices (for example the agency contact information for public records is incorrect). Therefore, rule making will begin for this chapter to update its provisions and ensure consistency with current law and agency practices.

2. Rule making will begin for chapter 236-22 WAC, Local government insurance transactions. This chapter was enacted by the state risk manager when the risk management function was a part of the Department of General Administration. The risk management function is now a part of the Office of Financial Management (OFM). In addition to updating the chapter rules to reflect changes in statute, the rules will be moved to Title 82 WAC, the chapter that contains all OFM rules.

For more information concerning the above rules, please contact Roselyn Marcus, Director of Legal Affairs/Rules Coordinator, Office of Financial Management, 300 Insurance Building, P.O. Box 43113, Olympia, WA 98504-3113, e-mail roselyn.marcus@ofm.wa.gov, phone (360) 902-0568.

Roselyn Marcus
Director of Legal Affairs
Rules Coordinator

WSR 04-14-029**INTERPRETIVE STATEMENT
DEPARTMENT OF REVENUE**

[Filed June 29, 2004, 3:18 p.m.]

ISSUANCE OF INTERPRETIVE STATEMENT

This announcement of the issuance 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 the following Excise Tax Advisory:

ETA 2017.04.08 National Streamlined Sales and Use Tax Agreement - Definition of "Tangible Personal Property"

As a result of legislation in 2003, Washington's sales and use tax statutes were modified to implement many provisions of the national streamlined sales and use tax agreement (agreement). The legislation adopted several uniform definitions from the agreement, including a definition of "tangible personal property," which became effective July 1, 2004. ETA 2017 has been issued to explain the tax implications of the definition of tangible personal property regarding the tax-

ability of steam and electricity for purposes of retail sales and use taxes, business and occupation (B&O) tax, and public utility tax.

A copy of this document is available via the Internet at <http://www.dor.wa.gov/content/laws/eta/eta.aspx> 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 04-14-030**INTERPRETIVE STATEMENT
DEPARTMENT OF REVENUE**

[Filed June 29, 2004, 3:19 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 2004 through June 2005.

A copy of this advisory is available via the internet at <http://www.dor.wa.gov/content/laws/eta/eta.aspx>. 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 04-14-035**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed June 29, 2004, 4:02 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 04-30 MAA.
Subject: Prescription drug program: Preferred drug list updates, prior authorization changes, and limitations on certain drugs.

Effective Date: June 15, 2004.

Document Description: **Effective for dates of the week of July 5, 2004, and after**, unless otherwise noted the medical Assistance Administration (MAA) will implement the following changes to the prescription drug program:

- Addition of one therapeutic drug class to the Washington preferred drug list;
- Expedited prior authorization changes;
- Drug change to prior authorization; and
- Additions to the list of limitations on certain drugs.

These changes will affect how you bill for these prescription services provided for dates of service on and after July 5, 2004, unless otherwise noted.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications Section, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail salmobl@dshs.wa.gov.

June 22, 2004
E. A. Myers, Manager
Rules and Publications Section

To receive a copy of the interpretive or policy statement, contact Beth Heston, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5278, TDD (360) 753-9122, fax (360) 586-3274, e-mail eheston@dshs.wa.gov.

June 24, 2004
Beth Heston

WSR 04-14-050
NOTICE OF PUBLIC MEETINGS
OFFICE OF THE GOVERNOR
(Clemency and Pardons Board)
[Memorandum—June 28, 2004]

The Washington State Clemency and Pardons Board hereby files with the code reviser the following change in meeting notice:

The regularly scheduled September 10, 2004, meeting of the Clemency and Pardons Board has been rescheduled and will be held on October 15, 2004. The meeting will be held in the John A. Cherberg Building, Hearing Room 4, Olympia, Washington, starting at 10:00 a.m.

WSR 04-14-056
DEPARTMENT OF ECOLOGY
[Filed June 30, 2004, 2:16 p.m.]

Below is a table of toxics cleanup program (TCP) policies, procedures and implementation memos that have been updated or are newly created. A description of each document, the document number, description of the document contents and the action taken are included.

This information is also being forwarded to Linda Thompson to be included in the Toxics Cleanup Program Site Register. In addition, Carol Dorn, TCP's forms and records analyst, and Barb Huether, TCP's internet coordinator, are being notified of the changes.

To receive a copy of any one of the following documents please contact Carol Dorn at (360) 407-7224.

WSR 04-14-036
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed June 29, 2004, 4:03 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: CN 242.

Subject: Foster care—Collecting child support for children with developmental disabilities.

Effective Date: June 24, 2004.

Document Description: This notice explains to DCS staff how to collect child support from parents of children in foster care who have developmental disabilities.

TCP Policy (POL) Number	Title	Description	Change	Contact for Copies
POL 300	Site Discovery— Release Reporting	This policy provides guidance on the types of releases that should be reported under WAC 173-340-300 and the procedures for reporting such releases.	Updated	Carol Dorn (360) 407-7224
POL 101	Site Discovery— Release Reporting	This policy provided guidance on the types of releases that should be reported under WAC 173-340-300 and the procedures for reporting such releases.	Deleted and incorporated into POL 300	Not applicable

MISC.

POL 102	Reporting Independent Cleanups	This policy provided guidance on which independent actions Ecology expected to be reported under WAC 173-340-300 Site discovery and reporting.	Deleted and incorporated into POL 300	Not applicable
POL540A	Enforcement	This policy applies whenever the department intends to issue Model Toxics Control Act orders requiring a potentially liable person to provide remedial action, or pay for cleanup costs or natural resource damage assessments. This policy is intended to supplement requirements specified in statute and rule.	Updated	Carol Dorn (360) 407-7224
TCP Procedure (PRO) Number	Title	Description	Change	Contact for Copies
PRO 320	Site Hazard Assessment and Ranking of Model Toxics Control Act (MTCA) Sites By Ecology Staff	This procedure applies to ecology staff responsible for actions taken to conduct a site hazard assessment and rank the site using the Washington ranking method.	Updated	Carol Dorn (360) 407-7224
PRO 321	Site Hazard Assessment of Model Toxics Control Act (MTCA) Sites By Local Health Districts/Departments For Ranking Under Washington Ranking Method	This procedure applies to ecology staff and local health district/department site hazard assessors responsible for conducting site hazard assessments under the MTCA.	Updated	Carol Dorn (360) 407-7224
TCP Implementation Memo Number	Title	Description	Change	Contact for Copies
Implementation Memo #4 04-09-086	Determining Compliance with Method A Cleanup Levels for Diesel and Heavy Oil	The purpose of this memo is to describe the actions necessary for determining the petroleum products within a soil or water sample when the petroleum products are unknown and/or when multiple types of petroleum products are suspected to be present.	New	Carol Dorn (360) 407-7224
Implementation Memo #5 04-09-087	Collecting and Preparing Soil Samples for VOC Analysis	The purpose of this memo is to provide technical guidance regarding implementation of the United States Environmental Protection Agency Method 5035A. This is the method setting the requirements and procedures for the collection and preparation of soil samples for volatile organic compound analysis.	New	Carol Dorn (360) 407-7224

MISC.

WSR 04-14-060

AGENDA

DEPARTMENT OF TRANSPORTATION

[Filed June 30, 2004, 3:21 p.m.]

Following is the Department of Transportation semi-annual rule development agenda for publication in the Washington State Register, pursuant to RCW 34.05.314.

There may be additional rule-making activity not on the agenda as conditions warrant.

If there are any questions, please feel free to contact Angie Collins at (360) 705-7796 or e-mail at collina@wsdot.wa.gov.

**DEPARTMENT OF TRANSPORTATION
RULE DEVELOPMENT CALENDAR**

July 1, 2004 - December 31, 2004

WAC Chapter or Section	Purpose
Chapter 468-38 WAC	Specialized equipment. Removing WAC 468-38-265 and 468-38-270.
Chapter 468-38 WAC	Specialized equipment. Measurement exclusive devices and self-issuing permits.
Chapter 468-100 WAC	Uniform relocation assistance and real property acquisition programs. Revising 49 C.F.R. part 24.
WAC 468-100-001 through 468-100-503	Real property acquisition programs.
WAC 468-100-601 through 468-100-603	Real property acquisition programs.
Chapter 468-300 WAC	Revisions to vessel/tariff/tolls and competitive bid process.

Angie Collins
Rules Coordinator

WSR 04-14-067

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF REVENUE**

[Filed July 2, 2004, 10:35 a.m.]

CANCELLATION OF INTERPRETIVE AND/OR POLICY STATEMENTS

This announcement of the cancellation of these statements is being published in the Washington State Register pursuant to the requirements of RCW 34.05.230(4).

The Department of Revenue has cancelled the following excise tax advisories effective June 30, 2004.

ETA 126.16.193 Storage and Handling of Grain for Export. This document is being canceled because it contains inaccurate information. ETA 126 explains that the handling and storage of grain intended for export by a licensed public warehouse is subject to public utility tax. WAC 458-20-182

Warehouse businesses, explains the tax-reporting responsibilities of warehouses and notes that there are no longer any warehouse businesses or operations subject to public utility tax.

ETA 143.04.193 Sales of Flour to Government for Export. This document identifies a situation in which the seller was unable to provide the documentation required to substantiate that the seller delivered goods into the export stream. A document explaining that a taxpayer must provide documentation as explained in Rule 193 is not needed. The documentary requirements are sufficiently addressed in WAC 458-20-193C Imports and exports—Sales of goods from or to persons in foreign countries.

ETA 299.32.229 Retail Sales Tax Refunds. This advisory explains that a seller is not entitled to a refund of improperly collected sales tax unless the seller has first refunded the tax to the customer, and that the customer must secure a refund of tax overpayment from the seller. This document is no longer needed as WAC 458-20-229 Refunds, addresses the subject matter, and identifies the circumstances under which the department will consider making refunds of sales tax directly to the customer. Additionally, ETA 299's explanation that both the seller and the customer have two years to seek a refund of sales taxes is incorrect. Rule 229 correctly notes that the statutory period for claiming a refund is four years after the close of the tax year in which the tax was paid.

ETA 512.08.244 Food Products Sold Through Convenience Food Sales Locations.

ETA 514.08.244 Dietary Supplements. The information provided in these documents is out-of-date. The issues are sufficiently addressed in WAC 458-20-244 Food and food ingredients.

ETA 378.08.166 Transient Guests—Message Service Charges. This document explains that message service charges by hotels, motels, and similar lodging providers are retail sales. This document is no longer needed as WAC 458-20-166 Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc., explains that message service charges are retail sales.

ETA 536.04.08.151/18801 Kidney Dialysis Machines and Heart Pacemakers Sales and Use Tax Exempt. The information provided in this document is no longer needed. Kidney dialysis machines and pacemakers are currently identified as tax-exempt property in WAC 458-20-18801 Prescription drugs, prosthetic and orthotic devices, ostomic items, and medically prescribed oxygen. RCW 82.08.945 and 82.12.945, effective July 1, 2004, provide sales and use tax exemptions for kidney dialysis machines. Implanted pacemakers qualify as prosthetic devices under the definition of "prosthetic device" in RCW 82.08.0283 that becomes effective July 1, 2004.

Questions regarding the cancellation of these documents may be directed to Alan R. Lynn, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6125, fax (360) 664-0693, internet alanl@dor.wa.gov.

Alan R. Lynn
Rules Coordinator

MISC.

WSR 04-14-071

NOTICE OF PUBLIC MEETINGS

TRANSPORTATION IMPROVEMENT BOARD

[Memorandum—July 1, 2004]

Due to scheduling and meeting location conflicts, the following two Transportation Improvement Board meetings have been changed. The September meeting is a change of date; the November meeting is a change in location.

SEPTEMBER TIB MEETING

Previously scheduled September 23-24, 2004, in Grandview. Now scheduled September 16-17, 2004, in Grandview.

NOVEMBER TIB MEETING

Previously scheduled November 18-19, 2004, in Bremerton. Now scheduled November 18-19, 2004, in SeaTac.

Please contact Eileen Bushman at 586-1146 or at eileenb@tib.wa.gov if you need additional information.

WSR 04-14-072

NOTICE OF PUBLIC MEETINGS

LOWER COLUMBIA COLLEGE

[Memorandum—June 29, 2004]

Instead of their regularly scheduled meeting on July 21, 2004, the board of trustees of Lower Columbia College will be holding an all-day workshop on August 25, 2004, beginning at 9:00 a.m. at 650 Smith Road, Toutle, WA.

WSR 04-14-086

NOTICE OF PUBLIC MEETINGS

EASTERN WASHINGTON UNIVERSITY

[Memorandum—June 29, 2004]

CORRECTION

On Wednesday, June 30, 2004, the Eastern Washington University board of trustees executive session and open public meeting will occur as soon as the morning retreat business in concluded.

June 30, 2004

8:00 - 11:00 a.m. BOT Retreat at Mukogawa Ft. Wright Institute

11:00 - 1:00 p.m. BOT Executive Session at Mukogawa (approximately) Ft. Wright Institute

1:00 - 1:15 p.m. BOT Open Public Meeting at Mukogawa (approximately) Ft. Wright Institute

WSR 04-14-095

AGENDA

DEPARTMENT OF ECOLOGY

[Filed July 6, 2004, 4:04 p.m.]

Pursuant to RCW 34.05.314, below is the Department of Ecology's rule agenda for July 2004 through December 2004.

If you have any questions please contact Jerry Thielen at (360) 407-6998 or e-mail at jthi461@ecy.wa.gov.

**Department of Ecology
Rule-making Agenda**

*The bolded dates indicate filings that have occurred.

WAC Chapter	Chapter Title	CR-102 Filing Date	CR-103 Filing Date
173-224 AO 03-11 October 2003	Wastewater discharge permit fees.	April 2004	July 2004
173-300 AO 04-05 February 2004	Certification of operators of solid waste incinerator and landfill facilities.	CR-105 in May	July 2004
173-175 AO 03-08 September 2003	Dam safety regulations.	April 2004	August 2004
173-407 AO 03-09	Greenhouse gas emissions.	August 2004	September 2004
317-10,173-181 AO 00-03 July 1999	Oil spill contingency plans and response contractor standards.	September 2004	December 2004
173-505 AO 02-17 November 2002	Instream resources protection program Stillaguamish River basin—WRIA 5.	October 2004	December 2004

MISC.

WAC Chapter	Chapter Title	CR-102 Filing Date	CR-103 Filing Date
173-218, 173-216, 173-226 AO 01-10 May 2001	Underground injection control program.	October 2004	December 2004
173-503 AO 04-01	Instream flow rule for the Samish subbasin.	August 2004	December 2004
173-563 173-531A AO 01-05 July 2001	Columbia River Initiative—Columbia River Main Stem and John Day-McNary Pools.	August 2004	December 2004
173-303 AO 03-10 October 2003	Dangerous waste regulations.	July 2004	December 2004
173-322 AO 04-06 February 2004	Remedial action grants.	September 2004	February 2005
173-400 AO 03-07	General regulation for air pollution sources.	August 2004	January 2004
173-518 AO 04-03	Elwha Dungeness instream resources protection and watershed management program.	November 2004	February 2005
173-546	Entiat watershed management program.	November 2004	May 2005
173-532 AO 04-08	Water resources program for the Walla Walla basin, WRIA 32.	December 2004	May 2005
173-503 AO 03-05 April 2003	Instream resources protection program—Lower and Upper Skagit Water Resources Inventory Area (WRIA 3 and 4).	December 2004	May 2005
173-517 AO 04-02	Quilcene-Snow instream resources protection and water management program.	January 2005	June 2005
173-430	Agricultural burning.	June 2004	November 2005
173-303 AO 04-07 March 2004	Persistent bioaccumulative toxins (PBT) rule.	May 2005	November 2005
173-98 AO 02-15 October 2002	Uses and limitations of the water pollution control state revolving fund.	January 2007	January 2007

Jerry Thielen
Rules Coordinator

WSR 04-14-105

AGENDA

DEPARTMENT OF REVENUE

[Filed July 7, 2004, 11:28 a.m.]

The Department of Revenue's rule development agenda shows those rules for which we anticipate some formal rule-making action, either a public meeting, hearing, or adoption, by January 31, 2005. Rules may be added or deleted from the work schedule as a result of resource allocation, legislation action, court decisions, or taxpayer request.

We have a website that includes this list at <http://dor.wa.gov/content/laws/Rulemaking/default.aspx>.

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.

**RULES DEVELOPMENT AGENDA
DEPARTMENT OF REVENUE
Activity planned by January 2005**

Rule Number	Subject	Explanation	Assigned To	Status
458-10-050	Accreditation of real property appraisers.	Update per rule review.	Jim Winterstein	CR-102 public hearing anticipated.
458-12-050 458-12-095 458-12-100 458-12-105 458-12-110	Listing of personal property.	Update per rule review. Anticipate combining info into one or two rules.	Jim Winterstein	CR-102 public hearing anticipated.
458-14-001 458-14-015 458-14-025 458-14-046 458-14-056 458-14-066 458-14-076 458-14-105 458-14-116 458-14-127 458-14-170	Board of Equalization.	Update per rule review.	Jim Winterstein	CR-101 public meeting anticipated.
458-16-180	Cemeteries.	Update per rule review.	Kim Qually	CR-101 public meeting anticipated.
458-16-New	Fee land owned by tribes.	Incorporate provisions of chapter 236, Laws of 2004.	Kim Qually/ Nathan Schreiner	CR-101 public meeting and possible emergency rule anticipated.
458-16A-110	Senior citizen/disabled person exemption.	Recognize federal law changes.	Jim Winterstein	CR-101 public meeting anticipated.
458-16A-115	Senior citizen/disabled person exemption.	Recognize federal law changes.	Jim Winterstein	CR-101 public meeting anticipated.
458-18-220	Rate of interest.	Annual update.	Kim Qually	Must be completed by January 1st.
458-19-045	Levy limit—Removal of limit.	Incorporate provisions of chapter 24, Laws of 2003 1st sp.s.	Kim Qually	CR-101 public meeting anticipated.
458-20-102	Resale certificates.	Incorporate provisions of "streamlined" legislation—Chapter 168, Laws of 2003.	Alan Lynn	Adoption anticipated.
458-20-108	Returns/discounts.	Update per rule review.	Ben Han	CR-101 public meeting anticipated.
458-20-110	Freight and delivery charges.	Incorporate provisions of "streamlined" legislation—Chapter 168, Laws of 2003.	Gayle Carlson	CR-101 public meeting scheduled August 17.
458-20-140	Photographers.	Update per rule review. Combine with WAC 458-20-142?	Gayle Carlson	CR-101 public meeting anticipated.
458-20-141	Duplicating industry and mailing bureaus.	To incorporate chapter 367, Laws of 2002 and update per rule review.	JoAnne Gordon	CR-102 public hearing anticipated.

MISC.

Rule Number	Subject	Explanation	Assigned To	Status
458-20-142	Photographic equipment.	Update per rule review. Combine with WAC 458-20-140?	Gayle Carlson	CR-101 public meeting anticipated.
458-20-148	Barber and beauty shops.	Update per rule review.	Beulah Holman/ JoAnne Gordon	CR-102 public hearing anticipated.
458-20-150	Optometrists, etc.	Incorporate provisions of "streamlined" legislation—Chapter 168, Laws of 2003.	Mark Mullin	Adoption anticipated.
458-20-151	Dentist/dental labs.	Incorporate provisions of "streamlined" legislation—Chapter 168, Laws of 2003.	Mark Mullin	Adoption anticipated.
458-20-168	Hospitals.	Update per rule review and incorporate chapter 174, Laws of 2004.	Mark Mullin	CR-101 public meeting scheduled July 28.
458-20-173	Installing, cleaning, repairing tangible personal property.	Update per rule review.	Allan Lau	CR-101 public meeting anticipated.
458-20-175	Interstate commerce by air/rail/water carriers.	Update per rule review—Possible consolidation with Rule 181.	Gayle Carlson	CR-101 public meeting anticipated.
458-20-177	Sales of vehicles to nonresidents.	Update per rule review.	Gil Brewer	CR-102 public hearing anticipated.
458-20-178	Use tax.	Incorporate provisions of "streamlined" legislation—Chapter 168, Laws of 2003 and chapter 153, Laws of 2004, update per rule review.	JoAnne Gordon	CR-102 public hearing anticipated.
458-20-17801	Use tax exemptions.	Incorporate and update exemption info now in WAC 458-20-178.	JoAnne Gordon	CR-102 public hearing anticipated.
458-20-17803	Promotional materials.	To incorporate provisions of chapter 367, Laws of 2002.	JoAnne Gordon	CR-102 public hearing anticipated.
458-20-179	Public utility tax.	Update per rule review.	Gayle Carlson	CR-101 public meeting anticipated.
458-20-17901	PUT—Energy conservation/cogeneration.	Update per rule review.	Gayle Carlson	CR-101 public meeting anticipated.
458-20-181	Operating vessels in Washington.	Update per rule review—Possible consolidation with Rule 175.	Gayle Carlson	CR-101 public meeting anticipated.
458-20-186 458-20-18601	Tax on cigarettes—Cigarette vendor licenses.	Incorporate provisions of chapter 114, Laws of 2003. Possible consolidation into one rule.	Margaret Partlow	CR-102 public hearing scheduled August 11.
458-20-18801	Prescription drugs, etc.	Incorporate provisions of "streamlined" legislation—Chapter 168, Laws of 2003 and chapter 153, Laws of 2004.	Pat Moses	CR-102 public hearing anticipated.

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Rule Number	Subject	Explanation	Assigned To	Status
458-20-189	Sales to/by state and political subdivision.	Update per rule review.	Pat Moses	CR-101 public meeting anticipated.
458-20-190 458-20-191 458-20-99999	Sales to/by United States government—Federal Reservations Appendix—The Buck Act.	Update and consolidate per rule review.	Cindy Evans	CR-102 public hearing anticipated.
458-20-193 458-20-193C	Inbound and out-bound interstate sales of tangible personal property. Imports and exports.	Update and consolidate per rule review.	Mark Mullin	CR-101 public meeting anticipated.
458-20-196	Bad debts.	Incorporate provisions of "streamlined" legislation—Chapter 168, Laws of 2003 and chapter 153, Laws of 2004.	Nathan Schreiner	CR-102 public hearing anticipated.
458-20-198	Installment sales.	Update with Rule 196.	Nathan Schreiner	CR-102 public hearing anticipated.
458-20-208	Accommodation sales.	Incorporate provisions of chapter 81, Laws of 2004.	JoAnne Gordon	Adoption anticipated.
458-20-211	Leases/rental of tangible personal property.	Incorporate provisions of "streamlined" legislation—Chapter 168, Laws of 2003, update per rule review.	JoAnne Gordon	CR-102 public hearing anticipated.
458-20-216	Successorship.	Incorporate provisions of chapter 13, Laws of 2003 1st sp.s.	Julie Sexton	CR-101 public meeting anticipated.
458-20-228	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	Refunds.	Incorporate provisions of chapter 73, Laws of 2003.	Gil Brewer	CR-101 public meeting anticipated.
458-20-240	Manufacturer's new employee tax credits.	Incorporate provisions of chapter 25, Laws of 2004.	Allan Lau	Candidate for expedited adoption.
458-20-24001 458-20-24001A	Sales/use tax deferral—Distressed areas.	Incorporate provisions of chapter 25, Laws of 2004.	Allan Lau	Candidates for expedited adoption.
458-20-24003	Tax incentives for high technology.	Incorporate provisions of chapter 2, Laws of 2004.	Allan Lau	Candidate for expedited adoption.
458-20-243	Litter tax.	Update per rule review.	Gayle Carlson	CR-101 public meeting anticipated.
458-20-244	Food.	Incorporate provisions of "streamlined" legislation—Chapter 153, Laws of 2004.	Julie Sexton/ Greg Potegal	CR-101 public meeting anticipated.
458-20-245	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-New	Mobile telephone service.	Incorporate provisions of chapter 67, Laws of 2002.	Gil Brewer	CR-101 public meeting anticipated.

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Rule Number	Subject	Explanation	Assigned To	Status
458-20-252	Hazardous substance tax/Petroleum products tax.	Update per rule review. Possible incorporation of petroleum products tax into a new rule.	Jim Winterstein	CR-102 public hearing anticipated.
458-20-255	Carbonated beverage tax.	Update per rule review.	Gayle Carlson	CR-101 public meeting scheduled 7/27.
458-20-261	Ridesharing exemptions/credits.	Update per rule review.	Allan Lau/ Greg Potegal	CR-101 public meeting anticipated.
458-20-263	Exemption for alternative power sources.	Incorporate provisions of chapter 152, Laws of 2004, update per rule review.	Gil Brewer	CR-102 public hearing anticipated.
458-30-262	Farm and agricultural land values.	Annual update.	Kim Qually	Must be completed by January 1st.
458-30-590	Rate of inflation.	Annual update.	Kim Qually	Must be completed by January 1st.
458-40-610	Timber excise tax—Definitions.	Update with WAC 458-40-680.	Gil Brewer	2nd CR-101 public meeting anticipated.
458-40-540	Forest land values.	Annual update.	Gil Brewer	Must be completed by January 1st.
458-40-660	Timber/forest tax stumpage values.	Required semiannually.	Gil Brewer	Must be completed before July 1st and January 1st each year.
458-40-680	Timber excise tax—Scaling.	Update with WAC 458-40-610.	Gil Brewer	2nd CR-102 public meeting anticipated.
Chapter 458-61 WAC	Real estate excise tax.	Update per rule review.	Margaret Partlow	CR-101 public meeting anticipated.

Alan R. Lynn
Rules Coordinator

WSR 04-14-106
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES
(Board of Natural Resources)
[Memorandum—July 7, 2004]

The Board of Natural Resources Retreat
Special Meeting
August 17, 18, and 19, 2004

Date	Location
August 19, 2004	Red Lion Inn 221 North Lincoln Street Port Angeles, WA 98362-2920

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 #
1- 21-070	AMD	04-02-071	16-170-010	NEW-P	04-05-119	16-170-145	NEW-P	04-05-119
4- 25-400	PREP	04-08-033	16-170-010	NEW	04-08-062	16-170-145	NEW	04-08-062
4- 25-410	PREP	04-08-033	16-170-020	NEW-P	04-05-119	16-170-150	NEW-P	04-05-119
4- 25-510	PREP	04-08-033	16-170-020	NEW	04-08-062	16-170-150	NEW	04-08-062
4- 25-530	PREP	04-06-085	16-170-030	NEW-P	04-05-119	16-170-155	NEW-P	04-05-119
4- 25-540	PREP	04-08-033	16-170-030	NEW	04-08-062	16-170-155	NEW	04-08-062
4- 25-550	PREP	04-08-033	16-170-035	NEW-P	04-05-119	16-170-170	NEW-P	04-05-119
4- 25-551	PREP	04-08-033	16-170-035	NEW	04-08-062	16-170-170	NEW	04-08-062
4- 25-610	PREP	04-08-033	16-170-037	NEW-P	04-05-119	16-170-175	NEW-P	04-05-119
4- 25-620	PREP	04-08-033	16-170-037	NEW	04-08-062	16-170-175	NEW	04-08-062
4- 25-626	PREP	04-08-033	16-170-040	NEW-P	04-05-119	16-170-180	NEW-P	04-05-119
4- 25-630	PREP	04-08-033	16-170-040	NEW	04-08-062	16-170-180	NEW	04-08-062
4- 25-631	PREP	04-08-033	16-170-050	NEW-P	04-05-119	16-219-010	REP-X	04-13-059
4- 25-640	PREP	04-08-033	16-170-050	NEW	04-08-062	16-219-100	REP-X	04-06-073
4- 25-650	PREP	04-08-033	16-170-060	NEW-P	04-05-119	16-219-100	REP	04-10-105
4- 25-660	PREP	04-08-033	16-170-060	NEW	04-08-062	16-219-105	REP-X	04-06-073
4- 25-661	PREP	04-08-033	16-170-070	NEW-P	04-05-119	16-219-105	REP	04-10-105
4- 25-670	PREP	04-08-033	16-170-070	NEW	04-08-062	16-228-1220	PREP	04-03-005
4- 25-710	PREP	04-08-033	16-170-075	NEW-P	04-05-119	16-228-1231	PREP	04-03-004
4- 25-720	PREP	04-08-033	16-170-075	NEW	04-08-062	16-228-1250	PREP	04-03-004
4- 25-721	PREP	04-08-033	16-170-080	NEW-P	04-05-119	16-229	PREP	04-14-102
4- 25-730	PREP	04-08-033	16-170-080	NEW	04-08-062	16-230-250	REP-X	04-13-058
4- 25-735	PREP	04-08-033	16-170-090	NEW-P	04-05-119	16-230-260	REP-X	04-13-058
4- 25-745	PREP	04-08-033	16-170-090	NEW	04-08-062	16-230-270	REP-X	04-13-058
4- 25-746	PREP	04-08-033	16-170-100	NEW-P	04-05-119	16-230-281	REP-X	04-13-058
4- 25-750	PREP	04-08-033	16-170-100	NEW	04-08-062	16-230-290	REP-X	04-13-058
4- 25-756	PREP	04-11-033	16-170-110	NEW-P	04-05-119	16-230-400	PREP	04-03-004
4- 25-782	PREP	04-11-033	16-170-110	NEW	04-08-062	16-230-410	PREP	04-03-004
4- 25-783	PREP	04-08-033	16-170-115	NEW-P	04-05-119	16-230-420	PREP	04-03-004
4- 25-790	PREP	04-08-033	16-170-115	NEW	04-08-062	16-230-430	PREP	04-03-004
4- 25-791	PREP	04-08-033	16-170-120	NEW-P	04-05-119	16-230-440	PREP	04-03-004
4- 25-792	PREP	04-08-033	16-170-120	NEW	04-08-062	16-230-450	PREP	04-03-004
4- 25-793	PREP	04-08-033	16-170-125	NEW-P	04-05-119	16-230-460	PREP	04-03-004
4- 25-795	PREP	04-08-033	16-170-125	NEW	04-08-062	16-230-470	PREP	04-03-004
4- 25-820	PREP	04-11-033	16-170-130	NEW-P	04-05-119	16-230-600	PREP	04-03-004
4- 25-830	PREP	04-08-033	16-170-130	NEW	04-08-062	16-230-605	PREP	04-03-004
4- 25-831	PREP	04-08-033	16-170-135	NEW-P	04-05-119	16-230-610	PREP	04-03-004
4- 25-910	PREP	04-08-033	16-170-135	NEW	04-08-062	16-230-615	PREP	04-03-004
16- 08-003	NEW	04-02-063	16-170-140	NEW-P	04-05-119	16-230-620	PREP	04-03-004
16- 08-004	NEW	04-02-063	16-170-140	NEW	04-08-062	16-230-625	PREP	04-03-004

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-230-630	PREP	04-03-004	16-231-235	PREP	04-03-004	16-232-035	PREP	04-03-004
16-230-635	PREP	04-03-004	16-231-300	PREP	04-03-004	16-232-041	PREP	04-03-004
16-230-640	PREP	04-03-004	16-231-305	PREP	04-03-004	16-232-044	PREP	04-03-004
16-230-645	PREP	04-03-004	16-231-310	PREP	04-03-004	16-232-047	PREP	04-03-004
16-230-650	PREP	04-03-004	16-231-315	PREP	04-03-004	16-232-050	PREP	04-03-004
16-230-655	PREP	04-03-004	16-231-320	PREP	04-03-004	16-232-053	PREP	04-03-004
16-230-660	PREP	04-03-004	16-231-325	PREP	04-03-004	16-232-056	PREP	04-03-004
16-230-665	PREP	04-03-004	16-231-330	PREP	04-03-004	16-232-059	PREP	04-03-004
16-230-670	PREP	04-03-004	16-231-335	PREP	04-03-004	16-232-062	PREP	04-03-004
16-230-673	PREP	04-03-004	16-231-400	PREP	04-03-004	16-232-065	PREP	04-03-004
16-230-675	PREP	04-03-004	16-231-405	PREP	04-03-004	16-232-068	PREP	04-03-004
16-230-800	PREP	04-03-004	16-231-410	PREP	04-03-004	16-232-071	PREP	04-03-004
16-230-810	PREP	04-03-004	16-231-413	PREP	04-03-004	16-232-074	PREP	04-03-004
16-230-813	PREP	04-03-004	16-231-415	PREP	04-03-004	16-232-077	PREP	04-03-004
16-230-815	PREP	04-03-004	16-231-420	PREP	04-03-004	16-232-100	PREP	04-03-004
16-230-820	PREP	04-03-004	16-231-425	PREP	04-03-004	16-232-105	PREP	04-03-004
16-230-825	PREP	04-03-004	16-231-500	PREP	04-03-004	16-232-110	PREP	04-03-004
16-230-830	PREP	04-03-004	16-231-505	PREP	04-03-004	16-232-115	PREP	04-03-004
16-230-835	PREP	04-03-004	16-231-510	PREP	04-03-004	16-232-120	PREP	04-03-004
16-230-835	PREP	04-13-057	16-231-515	PREP	04-03-004	16-232-200	PREP	04-03-004
16-230-840	PREP	04-03-004	16-231-520	PREP	04-03-004	16-232-205	PREP	04-03-004
16-230-845	PREP	04-03-004	16-231-525	PREP	04-03-004	16-232-210	PREP	04-03-004
16-230-850	PREP	04-03-004	16-231-530	PREP	04-03-004	16-232-215	PREP	04-03-004
16-230-855	PREP	04-03-004	16-231-600	PREP	04-03-004	16-232-220	PREP	04-03-004
16-230-860	PREP	04-03-004	16-231-605	PREP	04-03-004	16-232-225	PREP	04-03-004
16-230-860	PREP	04-13-057	16-231-610	PREP	04-03-004	16-232-300	PREP	04-03-004
16-230-861	PREP	04-03-004	16-231-613	PREP	04-03-004	16-232-305	PREP	04-03-004
16-230-862	PREP	04-03-004	16-231-615	PREP	04-03-004	16-232-310	PREP	04-03-004
16-230-863	PREP	04-03-004	16-231-620	PREP	04-03-004	16-232-315	PREP	04-03-004
16-230-864	PREP	04-03-004	16-231-700	PREP	04-03-004	16-250-155	PREP	04-06-074
16-230-866	PREP	04-03-004	16-231-705	PREP	04-03-004	16-250-155	AMD-P	04-11-093
16-230-868	PREP	04-03-004	16-231-710	PREP	04-03-004	16-250-155	AMD	04-14-076
16-231-100	PREP	04-03-004	16-231-715	PREP	04-03-004	16-252-155	PREP	04-06-074
16-231-105	PREP	04-03-004	16-231-720	PREP	04-03-004	16-252-155	AMD-P	04-11-093
16-231-107	PREP	04-03-004	16-231-725	PREP	04-03-004	16-252-155	AMD	04-14-076
16-231-110	PREP	04-03-004	16-231-800	PREP	04-03-004	16-301-250	AMD	04-06-019
16-231-115	PREP	04-03-004	16-231-805	PREP	04-03-004	16-301-265	AMD	04-06-019
16-231-119	PREP	04-03-004	16-231-810	PREP	04-03-004	16-301-270	AMD	04-06-019
16-231-125	PREP	04-03-004	16-231-815	PREP	04-03-004	16-301-310	AMD	04-06-019
16-231-130	PREP	04-03-004	16-231-820	PREP	04-03-004	16-301-325	AMD	04-06-019
16-231-135	PREP	04-03-004	16-231-825	PREP	04-03-004	16-301-330	AMD	04-06-019
16-231-140	PREP	04-03-004	16-231-830	PREP	04-03-004	16-301-335	AMD	04-06-019
16-231-145	PREP	04-03-004	16-231-835	PREP	04-03-004	16-301-365	AMD-P	04-05-118
16-231-149	PREP	04-03-004	16-231-840	PREP	04-03-004	16-301-365	AMD	04-08-043
16-231-153	PREP	04-03-004	16-231-900	PREP	04-03-004	16-301-375	AMD-P	04-05-118
16-231-156	PREP	04-03-004	16-231-905	PREP	04-03-004	16-301-375	AMD	04-08-043
16-231-159	PREP	04-03-004	16-231-910	PREP	04-03-004	16-301-380	AMD-P	04-05-118
16-231-162	PREP	04-03-004	16-231-912	PREP	04-03-004	16-301-380	AMD	04-08-043
16-231-165	PREP	04-03-004	16-231-915	PREP	04-03-004	16-301-395	AMD-P	04-05-118
16-231-168	PREP	04-03-004	16-231-920	PREP	04-03-004	16-301-395	AMD	04-08-043
16-231-171	PREP	04-03-004	16-231-925	PREP	04-03-004	16-301-396	NEW-P	04-05-118
16-231-174	PREP	04-03-004	16-231-930	PREP	04-03-004	16-301-396	NEW	04-08-043
16-231-177	PREP	04-03-004	16-231-935	PREP	04-03-004	16-301-410	AMD-P	04-05-118
16-231-180	PREP	04-03-004	16-232-001	PREP	04-03-004	16-301-410	AMD	04-08-043
16-231-183	PREP	04-03-004	16-232-005	PREP	04-03-004	16-301-415	AMD-P	04-05-118
16-231-200	PREP	04-03-004	16-232-007	PREP	04-03-004	16-301-415	AMD	04-08-043
16-231-205	PREP	04-03-004	16-232-010	PREP	04-03-004	16-301-420	AMD-P	04-05-118
16-231-210	PREP	04-03-004	16-232-015	PREP	04-03-004	16-301-420	AMD	04-08-043
16-231-215	PREP	04-03-004	16-232-020	PREP	04-03-004	16-301-430	AMD-P	04-05-118
16-231-220	PREP	04-03-004	16-232-025	PREP	04-03-004	16-301-430	AMD	04-08-043
16-231-225	PREP	04-03-004	16-232-027	PREP	04-03-004	16-301-435	AMD-P	04-05-118
16-231-230	PREP	04-03-004	16-232-030	PREP	04-03-004	16-301-435	AMD	04-08-043

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-301-440	AMD-P	04-05-118	16-390-200	NEW-P	04-08-128	16-402-100	NEW-E	04-14-103
16-301-440	AMD	04-08-043	16-390-200	NEW	04-11-078	16-402-110	NEW-E	04-07-046
16-301-450	REP-P	04-05-118	16-390-210	NEW-P	04-08-128	16-402-110	NEW-P	04-11-111
16-301-450	REP	04-08-043	16-390-210	NEW	04-11-078	16-402-110	NEW	04-14-090
16-301-455	REP-P	04-05-118	16-390-220	NEW-P	04-08-128	16-402-110	NEW-E	04-14-103
16-301-455	REP	04-08-043	16-390-220	NEW	04-11-078	16-402-120	NEW-E	04-07-046
16-301-460	REP-P	04-05-118	16-390-230	NEW-P	04-08-128	16-402-120	NEW-P	04-11-111
16-301-460	REP	04-08-043	16-390-230	NEW	04-11-078	16-402-120	NEW	04-14-090
16-301-465	REP-P	04-05-118	16-390-240	NEW-P	04-08-128	16-402-120	NEW-E	04-14-103
16-301-465	REP	04-08-043	16-390-240	NEW	04-11-078	16-402-130	NEW-E	04-07-046
16-301-470	REP-P	04-05-118	16-390-242	NEW-P	04-08-128	16-402-130	NEW-P	04-11-111
16-301-470	REP	04-08-043	16-390-242	NEW	04-11-078	16-402-130	NEW	04-14-090
16-301-475	REP-P	04-05-118	16-390-245	NEW-P	04-08-128	16-402-130	NEW-E	04-14-103
16-301-475	REP	04-08-043	16-390-245	NEW	04-11-078	16-449-001	REP	04-05-117
16-301-480	REP-P	04-05-118	16-390-250	NEW-P	04-08-128	16-449-010	REP	04-05-117
16-301-480	REP	04-08-043	16-390-250	NEW	04-11-078	16-449-020	REP	04-05-117
16-301-485	REP-P	04-05-118	16-390-260	NEW-P	04-08-128	16-449-030	REP	04-05-117
16-301-485	REP	04-08-043	16-390-260	NEW	04-11-078	16-450-005	NEW	04-05-117
16-302-385	AMD-P	04-05-120	16-390-270	NEW-P	04-08-128	16-450-010	NEW	04-05-117
16-302-385	AMD	04-08-044	16-390-270	NEW	04-11-078	16-450-012	NEW	04-05-117
16-302-685	AMD	04-06-018	16-390-280	NEW-P	04-08-128	16-450-014	NEW	04-05-117
16-303-340	AMD	04-06-029	16-390-280	NEW	04-11-078	16-450-016	NEW	04-05-117
16-319-041	AMD	04-06-028	16-400-007	REP-P	04-08-128	16-450-020	NEW	04-05-117
16-324-375	AMD-X	04-07-170	16-400-007	REP	04-11-078	16-450-022	NEW	04-05-117
16-324-375	AMD	04-12-026	16-400-008	REP-P	04-08-128	16-450-024	NEW	04-05-117
16-324-393	AMD-X	04-07-170	16-400-008	REP	04-11-078	16-450-026	NEW	04-05-117
16-324-393	AMD	04-12-026	16-400-010	REP-P	04-08-128	16-450-028	NEW	04-05-117
16-324-398	AMD-X	04-07-170	16-400-010	REP	04-11-078	16-450-032	NEW	04-05-117
16-324-398	AMD	04-12-026	16-400-040	REP-P	04-08-128	16-450-040	NEW	04-05-117
16-324-720	REP-X	04-07-170	16-400-040	REP	04-11-078	16-450-042	NEW	04-05-117
16-324-720	REP	04-12-026	16-400-045	REP-P	04-08-128	16-450-044	NEW	04-05-117
16-324-730	REP-X	04-07-170	16-400-045	REP	04-11-078	16-450-046	NEW	04-05-117
16-324-730	REP	04-12-026	16-400-060	REP-P	04-08-128	16-450-048	NEW	04-05-117
16-324-740	REP-X	04-07-170	16-400-060	REP	04-11-078	16-450-050	NEW	04-05-117
16-324-740	REP	04-12-026	16-400-100	REP-P	04-08-128	16-450-060	NEW	04-05-117
16-324-750	REP-X	04-07-170	16-400-100	REP	04-11-078	16-450-070	NEW	04-05-117
16-324-750	REP	04-12-026	16-400-150	REP-P	04-08-128	16-458-075	REP-P	04-08-128
16-328	PREP	04-09-082	16-400-150	REP	04-11-078	16-458-075	REP	04-11-078
16-328-011	AMD-P	04-13-150	16-400-210	REP-P	04-08-128	16-458-085	REP-P	04-08-128
16-333	PREP	04-09-081	16-400-210	REP	04-11-078	16-458-085	REP	04-11-078
16-333-041	AMD-P	04-13-149	16-400-270	REP-P	04-08-128	16-459-001	REP	04-05-117
16-350-040	AMD-P	04-07-171	16-400-270	REP	04-11-078	16-459-00101	REP	04-05-117
16-350-040	AMD	04-11-025	16-401	PREP	04-04-108	16-459-010	REP	04-05-117
16-350-045	AMD-P	04-07-171	16-401	PREP	04-06-082	16-459-020	REP	04-05-117
16-350-045	AMD	04-11-025	16-401	PREP	04-09-079	16-459-030	REP	04-05-117
16-354	PREP	04-13-145	16-401-027	AMD-P	04-13-146	16-459-040	REP	04-05-117
16-390-005	NEW-P	04-08-128	16-401-070	NEW-P	04-07-172	16-470	PREP	04-09-080
16-390-005	NEW	04-11-078	16-401-070	NEW	04-11-026	16-470-105	AMD-C	04-05-025
16-390-010	NEW-P	04-08-128	16-402	AMD-P	04-06-083	16-470-105	AMD	04-09-027
16-390-010	NEW	04-11-078	16-402	PREP	04-07-045	16-470-750	NEW-E	04-08-082
16-390-020	NEW-P	04-08-128	16-402	AMD	04-09-084	16-470-755	NEW-E	04-08-082
16-390-020	NEW	04-11-078	16-402-010	AMD-P	04-06-083	16-470-760	NEW-E	04-08-082
16-390-030	NEW-P	04-08-128	16-402-010	AMD	04-09-084	16-470-765	NEW-E	04-08-082
16-390-030	NEW	04-11-078	16-402-020	AMD-P	04-06-083	16-470-770	NEW-E	04-08-082
16-390-040	NEW-P	04-08-128	16-402-020	AMD	04-09-084	16-470-775	NEW-E	04-08-082
16-390-040	NEW	04-11-078	16-402-030	NEW-P	04-06-083	16-470-912	AMD-P	04-13-148
16-390-060	NEW-P	04-08-128	16-402-030	NEW	04-09-084	16-470-917	AMD-P	04-13-148
16-390-060	NEW	04-11-078	16-402-040	NEW-P	04-06-083	16-481	PREP	04-09-078
16-390-100	NEW-P	04-08-128	16-402-040	NEW	04-09-084	16-481	AMD-P	04-13-147
16-390-100	NEW	04-11-078	16-402-100	NEW-E	04-07-046	16-481-010	AMD-P	04-13-147
16-390-150	NEW-P	04-08-128	16-402-100	NEW-P	04-11-111	16-481-015	AMD-P	04-13-147
16-390-150	NEW	04-11-078	16-402-100	NEW	04-14-090	16-481-020	AMD-P	04-13-147

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16-481-025	AMD-P	04-13-147	16-662-105	AMD-X	04-07-044	51- 13-303	AMD-X	04-03-033
16-481-030	AMD-P	04-13-147	16-662-105	AMD	04-12-025	51- 13-303	AMD	04-07-192
16-481-050	AMD-P	04-13-147	16-675	PREP	04-09-083	51- 13-304	AMD-X	04-03-033
16-481-060	AMD-P	04-13-147	16-690-001	REP	04-05-117	51- 13-304	AMD	04-07-192
16-481-070	AMD-P	04-13-147	16-690-010	REP	04-05-117	51- 13-402	AMD-X	04-03-033
16-481-075	REP-P	04-13-147	16-690-015	REP	04-05-117	51- 13-402	AMD	04-07-192
16-512-002	REP	04-07-128	16-690-020	REP	04-05-117	51- 13-502	AMD-X	04-03-033
16-512-005	AMD	04-07-128	16-690-025	REP	04-05-117	51- 13-502	AMD	04-07-192
16-512-006	NEW	04-07-128	16-690-030	REP	04-05-117	51- 13-503	AMD-X	04-03-033
16-512-010	AMD	04-07-128	16-690-035	REP	04-05-117	51- 13-503	AMD	04-07-192
16-512-020	AMD	04-07-128	16-690-040	REP	04-05-117	51- 50	PREP	04-13-076
16-512-030	REP	04-07-128	16-690-045	REP	04-05-117	51- 50-003	AMD-X	04-13-077
16-512-040	AMD	04-07-128	16-690-100	REP	04-05-117	51- 50-005	AMD-X	04-13-077
16-512-050	AMD	04-07-128	16-750	PREP	04-13-015	51- 51-2439	NEW-W	04-07-083
16-528-004	NEW	04-10-057	16-750-011	AMD-X	04-07-021	51- 51-2802	NEW-W	04-07-083
16-528-005	NEW	04-10-057	16-750-011	AMD	04-13-014	51- 52	PREP	04-13-075
16-528-010	AMD	04-10-057	16-750-015	AMD-X	04-07-021	51- 52-0504	NEW-W	04-07-084
16-528-020	AMD	04-10-057	16-750-015	AMD	04-13-014	51- 54	PREP	04-13-074
16-528-030	REP	04-10-057	16-752	PREP	04-10-111	51- 54-0300	AMD-E	04-13-095
16-528-040	AMD	04-10-057	16-752-500	AMD-P	04-14-104	51- 54-0400	NEW-E	04-13-095
16-528-110	AMD	04-10-058	16-752-505	AMD-P	04-14-104	51- 54-0800	NEW-E	04-13-095
16-528-150	AMD	04-10-058	16-752-610	AMD-P	04-14-104	67- 16-020	NEW-X	04-07-110
16-528-220	REP	04-10-058	36- 12	PREP	04-09-009	67- 16-020	NEW	04-12-029
16-530-005	NEW-P	04-03-111	36- 12-011	AMD-P	04-13-144	67- 16-030	NEW-X	04-07-110
16-530-006	NEW-P	04-03-111	36- 12-500	NEW-P	04-13-144	67- 16-030	NEW	04-12-029
16-530-010	AMD-P	04-03-111	36- 13	PREP	04-09-009	67- 16-040	NEW-X	04-07-110
16-530-020	AMD-P	04-03-111	36- 14	PREP	04-09-009	67- 16-040	NEW	04-12-029
16-530-030	REP-P	04-03-111	36- 14-010	NEW-P	04-13-144	82- 50-021	AMD-X	04-08-126
16-530-040	AMD-P	04-03-111	36- 14-200	NEW-P	04-13-144	106-116-203	AMD-P	04-14-063
16-532-005	NEW-W	04-10-056	36- 14-300	NEW-P	04-13-144	106-116-305	AMD-P	04-14-063
16-532-006	NEW-W	04-10-056	36- 14-500	NEW-P	04-13-144	106-116-521	AMD-P	04-14-063
16-532-010	AMD-W	04-10-056	51- 04-030	AMD-X	04-03-034	106-116-603	AMD-P	04-14-063
16-532-020	AMD-W	04-10-056	51- 04-030	AMD	04-07-193	106-116-801	AMD-P	04-14-063
16-532-030	REP-W	04-10-056	51- 11	PREP	04-13-073	106-124-900	NEW-P	04-06-014
16-532-040	AMD-W	04-10-056	51- 11-0602	AMD-W	04-07-082	106-124-900	NEW	04-12-015
16-532-060	AMD-W	04-10-056	51- 11-1006	AMD-W	04-07-082	106-124-910	NEW-P	04-06-014
16-532-065	REP-W	04-10-056	51- 11-1132	AMD-W	04-07-082	106-124-910	NEW	04-12-015
16-532-101	REP	04-10-059	51- 11-1310	AMD-W	04-07-082	106-124-920	NEW-P	04-06-014
16-532-103	NEW-W	04-10-055	51- 11-1312	AMD-W	04-07-082	106-124-920	NEW	04-12-015
16-532-105	NEW-W	04-10-055	51- 11-1322	AMD-W	04-07-082	118- 33-010	REP	04-08-007
16-532-110	AMD-W	04-10-075	51- 11-1323	AMD-W	04-07-082	118- 33-020	REP	04-08-007
16-532-115	NEW-W	04-10-075	51- 11-1331	AMD-W	04-07-082	118- 33-030	REP	04-08-007
16-532-120	AMD	04-10-059	51- 11-1334	AMD-W	04-07-082	118- 33-040	REP	04-08-007
16-536-005	NEW-P	04-04-107	51- 11-1411	AMD-W	04-07-082	118- 33-050	REP	04-08-007
16-536-006	NEW-P	04-04-107	51- 11-1413	AMD-W	04-07-082	118- 33-060	REP	04-08-007
16-536-010	AMD-P	04-04-107	51- 11-1414	AMD-W	04-07-082	118- 33-070	REP	04-08-007
16-536-020	AMD-P	04-04-107	51- 11-1416	AMD-W	04-07-082	118- 33-080	REP	04-08-007
16-536-030	REP-P	04-04-107	51- 11-1423	AMD-W	04-07-082	118- 33-090	REP	04-08-007
16-536-040	AMD-P	04-04-107	51- 11-1432	AMD-W	04-07-082	118- 33-100	REP	04-08-007
16-536-060	AMD-P	04-04-107	51- 11-1433	AMD-W	04-07-082	118- 33-110	REP	04-08-007
16-545-005	NEW-P	04-09-104	51- 11-1436	AMD-W	04-07-082	118- 33-120	REP	04-08-007
16-545-006	NEW-P	04-09-104	51- 11-1437	AMD-W	04-07-082	131	PREP	04-03-032
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180- 88	PREP	04-09-064	182- 25-040	AMD-X	04-11-039	192- 16-023	REP-P	04-10-114
180- 90	PREP	04-12-107	182- 50-001	NEW	04-06-021	192- 23-014	REP-E	04-02-039
180- 95	PREP	04-12-106	182- 50-005	NEW	04-06-021	192- 23-014	REP-E	04-10-071
180- 96	PREP	04-12-105	182- 50-010	NEW	04-06-021	192- 23-014	REP-P	04-10-114
180- 97	PREP	04-12-104	182- 50-015	NEW	04-06-021	192- 23-015	REP-E	04-02-039
181- 01-002	NEW-P	04-04-105	182- 50-025	NEW	04-06-021	192- 23-015	REP-E	04-10-071
181- 01-002	NEW	04-08-047	182- 50-030	NEW	04-06-021	192- 23-015	REP-P	04-10-114
181- 01-003	NEW-P	04-04-106	182- 50-035	NEW	04-06-021	192- 23-016	REP-E	04-02-039
181- 01-003	NEW	04-08-048	182- 50-200	NEW	04-06-021	192- 23-016	REP-E	04-10-071
182	PREP	04-07-079	192- 04-040	AMD-E	04-02-039	192- 23-016	REP-P	04-10-114
182- 08-015	AMD-P	04-13-156	192- 04-040	AMD-E	04-10-071	192- 23-017	REP-E	04-02-039
182- 08-095	REP-P	04-13-156	192- 04-040	AMD-P	04-10-114	192- 23-017	REP-E	04-10-071
182- 08-120	AMD-P	04-13-156	192- 04-050	AMD-E	04-02-039	192- 23-017	REP-P	04-10-114
182- 08-125	REP-P	04-13-156	192- 04-050	AMD-E	04-10-071	192- 23-019	REP-E	04-02-039
182- 08-160	REP-P	04-13-156	192- 04-050	AMD-P	04-10-114	192- 23-019	REP-E	04-10-071
182- 08-165	REP-P	04-13-156	192- 12-011	REP-E	04-02-039	192- 23-019	REP-P	04-10-114
182- 08-175	REP-P	04-13-156	192- 12-011	REP-E	04-10-071	192- 23-061	REP-E	04-02-039
182- 08-180	AMD-P	04-13-156	192- 12-011	REP-P	04-10-114	192- 23-061	REP-E	04-10-071
182- 08-190	AMD-P	04-13-156	192- 12-012	REP-E	04-02-039	192- 23-061	REP-P	04-10-114
182- 08-196	AMD-P	04-13-156	192- 12-012	REP-E	04-10-071	192- 23-096	REP-E	04-02-039
182- 08-200	AMD-P	04-13-156	192- 12-012	REP-P	04-10-114	192- 23-096	REP-E	04-10-071
182- 08-210	REP-P	04-13-156	192- 12-020	REP-E	04-02-039	192- 23-096	REP-P	04-10-114
182- 08-230	NEW-P	04-13-156	192- 12-020	REP-E	04-10-071	192- 23-800	REP-E	04-02-039
182- 12	PREP	04-07-080	192- 12-020	REP-P	04-10-114	192- 23-800	REP-E	04-10-071
182- 12-108	NEW-P	04-13-156	192- 12-180	REP-E	04-02-039	192- 23-800	REP-P	04-10-114
182- 12-109	NEW-P	04-13-156	192- 12-180	REP-E	04-10-071	192- 23-810	REP-E	04-02-039
182- 12-110	REP-P	04-13-156	192- 12-180	REP-P	04-10-114	192- 23-810	REP-E	04-10-071
182- 12-111	AMD-P	04-13-156	192- 12-184	REP-E	04-02-039	192- 23-810	REP-P	04-10-114
182- 12-112	NEW-P	04-13-156	192- 12-184	REP-E	04-10-071	192- 28-105	REP-E	04-02-039
182- 12-115	PREP	04-11-011	192- 12-184	REP-P	04-10-114	192- 28-105	REP-E	04-10-071
182- 12-117	REP-P	04-13-156	192- 12-190	REP-E	04-02-039	192- 28-105	REP-P	04-10-114
182- 12-118	REP-P	04-13-156	192- 12-190	REP-E	04-10-071	192- 28-110	REP-E	04-02-039
182- 12-119	REP-P	04-13-156	192- 12-190	REP-P	04-10-114	192- 28-110	REP-E	04-10-071

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
196-09-010	AMD	04-04-001	199-08-390	NEW-E	04-10-002	208-690-040	NEW-E	04-07-182
196-09-050	NEW	04-04-001	199-08-395	NEW-E	04-10-002	208-690-040	NEW-P	04-11-110
196-09-055	NEW	04-04-001	199-08-400	NEW-E	04-10-002	208-690-045	NEW-E	04-07-182
196-09-060	NEW	04-04-001	199-08-405	NEW-E	04-10-002	208-690-045	NEW-P	04-11-110
196-09-100	NEW	04-04-001	199-08-410	NEW-E	04-10-002	208-690-050	NEW-E	04-07-182
196-09-110	NEW	04-04-001	199-08-415	NEW-E	04-10-002	208-690-050	NEW-P	04-11-110
196-09-120	NEW	04-04-001	199-08-420	NEW-E	04-10-002	208-690-060	NEW-E	04-07-182
196-12-005	NEW	04-04-001	199-08-425	NEW-E	04-10-002	208-690-060	NEW-P	04-11-110
196-12-010	AMD	04-04-001	199-08-426	NEW-E	04-10-002	208-690-070	NEW-E	04-07-182
196-12-020	AMD	04-04-001	199-08-427	NEW-E	04-10-002	208-690-070	NEW-P	04-11-110
196-12-030	AMD	04-04-001	199-08-428	NEW-E	04-10-002	208-690-075	NEW-E	04-07-182
196-12-045	AMD	04-04-001	199-08-429	NEW-E	04-10-002	208-690-075	NEW-P	04-11-110
196-12-050	AMD	04-04-001	199-08-430	NEW-E	04-10-002	208-690-080	NEW-E	04-07-182
196-12-055	NEW	04-04-001	199-08-435	NEW-E	04-10-002	208-690-080	NEW-P	04-11-110
196-12-065	NEW	04-04-001	199-08-440	NEW-E	04-10-002	208-690-090	NEW-E	04-07-182
196-16-006	NEW	04-04-001	199-08-445	NEW-E	04-10-002	208-690-090	NEW-P	04-11-110
196-16-007	AMD	04-04-001	199-08-450	NEW-E	04-10-002	208-690-100	NEW-E	04-07-182
196-16-010	AMD	04-04-001	199-08-455	NEW-E	04-10-002	208-690-100	NEW-P	04-11-110
196-16-020	AMD	04-04-001	199-08-460	NEW-E	04-10-002	208-690-110	NEW-E	04-07-182
196-16-031	AMD	04-04-001	199-08-465	NEW-E	04-10-002	208-690-110	NEW-P	04-11-110
196-16-035	NEW	04-04-001	199-08-470	NEW-E	04-10-002	208-690-112	NEW-E	04-07-182
196-20-005	NEW-P	04-04-027	199-08-475	NEW-E	04-10-002	208-690-112	NEW-P	04-11-110
196-20-005	NEW	04-10-067	199-08-480	NEW-E	04-10-002	208-690-115	NEW-E	04-07-182
196-20-010	AMD-P	04-04-027	199-08-485	NEW-E	04-10-002	208-690-115	NEW-P	04-11-110
196-20-010	AMD	04-10-067	199-08-490	NEW-E	04-10-002	208-690-120	NEW-E	04-07-182
196-20-020	AMD-P	04-04-027	199-08-495	NEW-E	04-10-002	208-690-120	NEW-P	04-11-110
196-20-020	AMD	04-10-067	199-08-500	NEW-E	04-10-002	208-690-130	NEW-E	04-07-182
196-20-030	AMD-P	04-04-027	199-08-510	NEW-E	04-10-002	208-690-130	NEW-P	04-11-110
196-20-030	AMD	04-10-067	199-08-515	NEW-E	04-10-002	208-690-140	NEW-E	04-07-182
196-21-005	NEW	04-04-001	199-08-520	NEW-E	04-10-002	208-690-140	NEW-P	04-11-110
196-21-010	AMD	04-04-001	199-08-525	NEW-E	04-10-002	208-690-150	NEW-E	04-07-182
196-21-020	AMD	04-04-001	199-08-535	NEW-E	04-10-002	208-690-150	NEW-P	04-11-110
196-21-030	AMD	04-04-001	199-08-540	NEW-E	04-10-002	208-690-160	NEW-E	04-07-182
196-23	PREP	04-10-011	199-08-545	NEW-E	04-10-002	208-690-160	NEW-P	04-11-110
196-23-070	AMD	04-04-001	199-08-550	NEW-E	04-10-002	208-690-170	NEW-E	04-07-182
196-24-041	REP	04-04-001	199-08-555	NEW-E	04-10-002	208-690-170	NEW-P	04-11-110
196-24-080	REP	04-04-001	199-08-565	NEW-E	04-10-002	208-690-180	NEW-E	04-07-182
196-24-085	REP	04-04-001	199-08-570	NEW-E	04-10-002	208-690-180	NEW-P	04-11-110
196-24-100	REP	04-04-001	199-08-580	NEW-E	04-10-002	212-17-060	AMD-E	04-11-061
196-24-105	REP	04-04-001	204-91A	PREP	04-10-054	212-17-480	NEW-E	04-11-061
196-24-110	REP-W	04-05-061	204-91A-030	AMD-P	04-13-040	212-17-485	NEW-E	04-11-061
196-25-001	AMD	04-04-001	204-91A-040	AMD-P	04-13-040	212-17-490	NEW-E	04-11-061
196-25-002	AMD-W	04-05-061	204-91A-050	AMD-P	04-13-040	212-17-495	NEW-E	04-11-061
196-25-005	AMD	04-04-001	204-91A-060	AMD-P	04-13-040	212-17-500	NEW-E	04-11-061
196-25-010	AMD	04-04-001	204-91A-070	AMD-P	04-13-040	212-17-505	NEW-E	04-11-061
196-25-020	REP	04-04-001	204-91A-080	AMD-P	04-13-040	212-17-510	NEW-E	04-11-061
196-25-030	REP	04-04-001	204-91A-090	AMD-P	04-13-040	212-17-515	NEW-E	04-11-061
196-25-040	AMD-W	04-05-061	204-91A-120	AMD-P	04-13-040	212-17-520	NEW-E	04-11-061
196-25-050	AMD	04-04-001	204-91A-130	AMD-P	04-13-040	212-17-525	NEW-E	04-11-061
196-25-100	REP	04-04-001	204-91A-140	AMD-P	04-13-040	212-17-530	NEW-E	04-11-061
196-26A	PREP	04-10-011	204-91A-170	AMD-P	04-13-040	212-17-535	NEW-E	04-11-061
196-27A-025	NEW-W	04-05-061	204-96-010	AMD	04-07-012	212-17-540	NEW-E	04-11-061
199-08-300	NEW-E	04-10-002	208-690-010	NEW-E	04-07-182	220-12-020	AMD	04-07-009
199-08-305	NEW-E	04-10-002	208-690-010	NEW-P	04-11-110	220-16-270	AMD	04-07-009
199-08-310	NEW-E	04-10-002	208-690-020	NEW-E	04-07-182	220-16-470	AMD-X	04-12-073
199-08-315	NEW-E	04-10-002	208-690-020	NEW-P	04-11-110	220-16-47000B	NEW-E	04-10-034
199-08-320	NEW-E	04-10-002	208-690-030	NEW-E	04-07-182	220-16-550	AMD	04-07-009
199-08-325	NEW-E	04-10-002	208-690-030	NEW-P	04-11-110	220-16-800	NEW	04-07-009
199-08-335	NEW-E	04-10-002	208-690-031	NEW-E	04-07-182	220-16-800	NEW-W	04-14-085
199-08-340	NEW-E	04-10-002	208-690-031	NEW-P	04-11-110	220-16-810	NEW	04-07-009
199-08-350	NEW-E	04-10-002	208-690-035	NEW-E	04-07-182	220-16-810	NEW-W	04-14-085
199-08-385	NEW-E	04-10-002	208-690-035	NEW-P	04-11-110	220-16-820	NEW-W	04-14-085

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
220-16-830	NEW-W	04-14-085	220-33-01000T	REP-E	04-07-008	220-52-03000U	REP-E	04-11-051
220-16-840	NEW-W	04-14-085	220-33-01000U	NEW-E	04-07-008	220-52-03000V	NEW-E	04-14-004
220-16-850	NEW-W	04-14-085	220-33-01000V	REP-E	04-07-028	220-52-03000V	REP-E	04-14-004
220-20-056	REP	04-10-108	220-33-01000V	NEW-E	04-07-028	220-52-04000A	NEW-E	04-13-024
220-20-080	AMD	04-08-025	220-33-01000V	REP-E	04-07-050	220-52-04000A	REP-E	04-13-024
220-20-100	AMD-W	04-14-085	220-33-01000W	NEW-E	04-07-050	220-52-04000B	NEW-E	04-13-060
220-22-40000F	NEW-E	04-13-024	220-33-01000W	REP-E	04-07-078	220-52-04000B	REP-E	04-13-060
220-24-04000L	NEW-E	04-10-001	220-33-01000X	NEW-E	04-07-078	220-52-04000U	REP-E	04-05-007
220-24-04000L	REP-E	04-10-001	220-33-01000X	REP-E	04-07-118	220-52-04000V	NEW-E	04-05-007
220-24-04000L	REP-E	04-11-010	220-33-01000Y	NEW-E	04-07-118	220-52-04000V	REP-E	04-05-014
220-24-04000M	NEW-E	04-11-052	220-33-01000Y	REP-E	04-07-169	220-52-04000W	NEW-E	04-05-014
220-24-04000M	REP-E	04-11-052	220-33-01000Z	NEW-E	04-07-169	220-52-04000W	REP-E	04-06-003
220-24-04000N	NEW-E	04-12-011	220-33-01000Z	REP-E	04-08-011	220-52-04000X	NEW-E	04-06-003
220-24-04000N	REP-E	04-12-011	220-33-03000U	NEW-E	04-09-018	220-52-04000X	REP-E	04-07-013
220-24-04000P	NEW-E	04-14-009	220-33-03000U	REP-E	04-09-018	220-52-04000Y	NEW-E	04-07-013
220-24-04000P	REP-E	04-14-009	220-33-04000U	REP-E	04-07-117	220-52-04000Y	REP-E	04-07-019
220-24-04000Q	NEW-E	04-14-092	220-33-04000V	NEW-E	04-07-117	220-52-04000Z	NEW-E	04-07-019
220-24-04000Q	REP-E	04-14-092	220-33-04000V	REP-E	04-07-117	220-52-04600D	REP-E	04-03-049
220-32-05100P	NEW-E	04-03-075	220-33-070	NEW-W	04-10-074	220-52-04600F	REP-E	04-05-007
220-32-05100P	REP-E	04-03-075	220-36-023	AMD-X	04-11-109	220-52-04600G	NEW-E	04-03-049
220-32-05100P	REP-E	04-04-053	220-40-027	AMD-X	04-11-109	220-52-04600G	REP-E	04-06-042
220-32-05100Q	NEW-E	04-04-053	220-44-05000A	NEW-E	04-03-010C	220-52-04600H	NEW-E	04-05-007
220-32-05100Q	REP-E	04-04-053	220-44-05000A	REP-E	04-12-012	220-52-04600H	REP-E	04-06-013
220-32-05100Q	REP-E	04-07-027	220-44-05000B	NEW-E	04-12-012	220-52-04600I	NEW-E	04-06-013
220-32-05100R	NEW-E	04-07-027	220-44-05000Z	REP-E	04-03-010C	220-52-04600I	REP-E	04-07-013
220-32-05100R	REP-E	04-07-027	220-47-301	AMD-X	04-12-129	220-52-04600J	NEW-E	04-06-042
220-32-05100S	NEW-E	04-10-064	220-47-302	AMD-X	04-12-129	220-52-04600J	REP-E	04-08-038
220-32-05100S	REP-E	04-10-064	220-47-303	AMD-X	04-12-129	220-52-04600K	NEW-E	04-07-013
220-32-05100T	NEW-E	04-11-022	220-47-307	AMD-X	04-12-129	220-52-04600K	REP-E	04-07-042
220-32-05100T	REP-E	04-11-022	220-47-311	AMD-X	04-12-129	220-52-04600L	NEW-E	04-07-042
220-32-05100T	REP-E	04-11-074	220-47-325	AMD-X	04-12-129	220-52-04600L	REP-E	04-13-024
220-32-05100U	NEW-E	04-11-074	220-47-401	AMD-X	04-12-129	220-52-04600M	NEW-E	04-08-038
220-32-05100U	REP-E	04-11-074	220-47-411	AMD-X	04-12-129	220-52-04600M	REP-E	04-08-038
220-32-05100U	REP-E	04-12-021	220-47-428	AMD-X	04-12-129	220-52-04600N	NEW-E	04-13-024
220-32-05100V	NEW-E	04-12-021	220-47-430	REP-X	04-12-129	220-52-04600N	REP-E	04-13-024
220-32-05100V	REP-E	04-12-021	220-48-01500T	NEW-E	04-07-029	220-52-04600P	NEW-E	04-13-060
220-32-05100W	NEW-E	04-13-065	220-48-01500T	REP-E	04-14-047	220-52-04600P	REP-E	04-13-060
220-32-05100W	REP-E	04-13-117	220-48-01500U	NEW-E	04-14-047	220-52-05100P	NEW-E	04-09-007
220-32-05100X	NEW-E	04-13-117	220-48-029	AMD-P	04-13-005	220-52-05100P	REP-E	04-10-025
220-32-05100X	REP-E	04-13-117	220-48-02900D	NEW-E	04-05-056	220-52-05100Q	NEW-E	04-10-025
220-32-05100Y	NEW-E	04-14-046	220-48-02900D	REP-E	04-13-055	220-52-05100Q	REP-E	04-11-044
220-32-05100Y	REP-E	04-14-046	220-48-02900E	NEW-E	04-13-055	220-52-05100R	NEW-E	04-11-044
220-32-06000B	NEW-E	04-10-064	220-48-02900F	NEW-E	04-14-007	220-52-05100R	REP-E	04-13-007
220-32-06000B	REP-E	04-10-064	220-48-032	AMD-P	04-13-005	220-52-05100S	NEW-E	04-13-007
220-33-01000A	NEW-E	04-08-011	220-48-03200C	NEW-E	04-05-056	220-52-05100S	REP-E	04-13-027
220-33-01000A	REP-E	04-08-026	220-48-03200C	REP-E	04-13-055	220-52-05100T	NEW-E	04-13-027
220-33-01000B	NEW-E	04-08-026	220-48-03200D	NEW-E	04-13-055	220-52-05100T	REP-E	04-13-082
220-33-01000B	REP-E	04-09-021	220-48-03200E	NEW-E	04-14-007	220-52-05100U	NEW-E	04-13-082
220-33-01000C	NEW-E	04-09-021	220-48-062	AMD-P	04-13-005	220-52-05100U	REP-E	04-14-058
220-33-01000C	REP-E	04-11-001	220-48-06200C	NEW-E	04-05-056	220-52-05100V	NEW-E	04-14-058
220-33-01000D	NEW-E	04-11-075	220-48-06200C	REP-E	04-13-055	220-52-07100D	NEW-E	04-03-031
220-33-01000D	REP-E	04-11-075	220-48-06200D	NEW-E	04-13-055	220-52-07100D	REP-E	04-05-008
220-33-01000E	NEW-E	04-14-048	220-49-020	AMD-P	04-13-005	220-52-07100E	NEW-E	04-05-008
220-33-01000E	REP-E	04-14-048	220-49-02000P	NEW-E	04-05-056	220-52-07100E	REP-E	04-05-045
220-33-01000Q	REP-E	04-04-071	220-49-02000P	REP-E	04-13-055	220-52-07100F	NEW-E	04-05-045
220-33-01000R	NEW-E	04-04-071	220-49-02000Q	NEW-E	04-13-055	220-52-07100F	REP-E	04-06-041
220-33-01000R	REP-E	04-04-071	220-49-023	AMD-P	04-13-163	220-52-07100G	NEW-E	04-06-041
220-33-01000S	NEW-E	04-06-002	220-49-056	AMD-P	04-13-005	220-52-07100H	NEW-E	04-14-093
220-33-01000S	REP-E	04-06-002	220-49-05600C	NEW-E	04-05-056	220-52-073	AMD-P	04-13-033
220-33-01000S	REP-E	04-06-059	220-49-05600C	REP-E	04-13-055	220-52-07300J	REP-E	04-03-010B
220-33-01000T	NEW-E	04-06-059	220-49-05600D	NEW-E	04-13-055	220-52-07300K	NEW-E	04-03-010B
			220-52-03000U	NEW-E	04-11-051	220-52-07300K	REP-E	04-03-074

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
220-52-07300L	NEW-E	04-03-074	220-56-282	AMD	04-07-009	220-69-220	AMD-P	04-13-193
220-52-07300L	REP-E	04-06-012	220-56-310	AMD	04-07-009	220-69-23402	AMD-P	04-13-193
220-55-061	NEW-P	04-05-068	220-56-310	AMD-P	04-13-023	220-69-236	AMD-P	04-13-193
220-55-061	NEW	04-08-063	220-56-315	AMD	04-07-009	220-69-240	AMD-P	04-13-033
220-55-115	AMD-P	04-13-061	220-56-325	AMD	04-07-009	220-69-240	AMD-P	04-13-193
220-56-100	AMD-W	04-05-060	220-56-32500K	NEW-E	04-09-020	220-69-241	AMD	04-05-028
220-56-100	AMD	04-07-009	220-56-32500K	REP-E	04-09-052	220-69-241	AMD-P	04-13-193
220-56-100	AMD-X	04-11-119	220-56-32500L	NEW-E	04-09-052	220-69-242	AMD-P	04-13-193
220-56-10000C	NEW-E	04-10-034	220-56-32500L	REP-E	04-09-102	220-69-243	AMD-P	04-13-193
220-56-115	AMD	04-07-009	220-56-32500M	NEW-E	04-09-102	220-69-250	AMD-P	04-13-193
220-56-118	NEW	04-07-009	220-56-32500M	REP-E	04-10-028	220-69-254	AMD-P	04-13-193
220-56-123	AMD-X	04-11-119	220-56-32500N	NEW-E	04-10-028	220-69-260	AMD-P	04-13-193
220-56-128	AMD-X	04-11-119	220-56-32500N	REP-E	04-11-014	220-69-262	REP-P	04-13-193
220-56-128	AMD-P	04-13-005	220-56-32500P	NEW-E	04-11-014	220-69-264	AMD-P	04-13-193
220-56-12800H	NEW-E	04-10-034	220-56-32500P	REP-E	04-11-077	220-69-26401	AMD-P	04-13-193
220-56-150	AMD	04-07-009	220-56-32500Q	NEW-E	04-11-077	220-69-270	AMD-P	04-13-193
220-56-175	AMD	04-10-033	220-56-32500Q	REP-E	04-12-036	220-69-274	AMD-P	04-13-193
220-56-180	AMD-X	04-11-119	220-56-32500R	NEW-E	04-12-036	220-69-280	AMD-P	04-13-193
220-56-18000C	NEW-E	04-10-034	220-56-32500R	REP-E	04-12-061	220-69-300	AMD-P	04-13-193
220-56-195	AMD-X	04-11-119	220-56-32500S	NEW-E	04-12-061	220-72-01000B	NEW-E	04-08-037
220-56-19500M	NEW-E	04-10-034	220-56-32500S	REP-E	04-13-034	220-72-011	AMD-P	04-05-069
220-56-215	AMD	04-07-009	220-56-32500T	NEW-E	04-13-034	220-72-089	AMD-P	04-05-069
220-56-232	NEW-W	04-10-077	220-56-32500T	REP-E	04-13-093	220-72-08900C	NEW-E	04-08-037
220-56-235	AMD	04-07-009	220-56-32500U	NEW-E	04-13-093	220-72-090	AMD-P	04-05-069
220-56-235	AMD-W	04-10-073	220-56-330	AMD	04-07-009	220-72-09000C	NEW-E	04-08-037
220-56-235	AMD-P	04-13-005	220-56-33000J	NEW-E	04-13-004	220-88B-030	AMD	04-05-027
220-56-23500S	NEW-E	04-05-057	220-56-33000J	REP-E	04-13-028	220-88B-040	AMD	04-05-027
220-56-23500S	REP-E	04-13-056	220-56-33000K	NEW-E	04-13-008	220-88C-030	AMD-P	04-07-186
220-56-23500T	NEW-E	04-07-006	220-56-33000L	NEW-E	04-13-066	220-88C-030	AMD	04-10-035
220-56-23500T	REP-E	04-07-006	220-56-33000L	REP-E	04-13-066	220-88C-03000	NEW-E	04-10-041
220-56-23500U	NEW-E	04-13-056	220-56-335	AMD	04-07-009	220-88C-040	AMD-P	04-07-186
220-56-250	AMD	04-07-009	220-56-350	AMD	04-07-009	220-88C-040	AMD	04-10-035
220-56-250	AMD-W	04-10-073	220-56-35000Q	NEW-E	04-03-010A	220-88C-04000	NEW-E	04-10-041
220-56-25000F	NEW-E	04-07-005	220-56-35000Q	REP-E	04-06-035	220-100-110	AMD-X	04-09-046
220-56-25000G	NEW-E	04-10-042	220-56-35000R	NEW-E	04-06-035	220-100-110	AMD	04-14-006
220-56-25000G	REP-E	04-10-042	220-56-35000R	REP-E	04-07-043	220-110-035	PREP	04-04-008
220-56-25500K	NEW-E	04-10-027	220-56-35000S	NEW-E	04-07-043	220-110-035	AMD-P	04-08-064
220-56-25500K	REP-E	04-10-043	220-56-35000S	REP-E	04-09-006	220-120-010	REP-P	04-13-141
220-56-25500L	NEW-E	04-10-043	220-56-35000T	NEW-E	04-09-006	220-120-020	REP-P	04-13-141
220-56-25500L	REP-E	04-12-002	220-56-36000A	NEW-E	04-10-070	220-120-030	REP-P	04-13-141
220-56-25500M	NEW-E	04-12-002	220-56-36000A	REP-E	04-10-070	220-120-040	REP-P	04-13-141
220-56-25500M	REP-E	04-12-032	220-56-36000W	NEW-E	04-03-048	220-120-050	REP-P	04-13-141
220-56-25500N	NEW-E	04-12-032	220-56-36000W	REP-E	04-03-048	220-120-060	REP-P	04-13-141
220-56-25500N	REP-E	04-13-026	220-56-36000X	NEW-E	04-05-100	220-120-070	REP-P	04-13-141
220-56-25500P	NEW-E	04-13-026	220-56-36000X	REP-E	04-05-100	220-120-080	REP-P	04-13-141
220-56-25500P	REP-E	04-14-024	220-56-36000Y	NEW-E	04-07-097	220-120-090	REP-P	04-13-141
220-56-25500Q	NEW-E	04-14-024	220-56-36000Y	REP-E	04-07-097	220-120-100	REP-P	04-13-141
220-56-267	AMD-P	04-13-005	220-56-36000Z	NEW-E	04-09-058	220-125-010	AMD	04-05-026
220-56-26700B	NEW-E	04-05-057	220-56-36000Z	REP-E	04-09-058	222-08-010	AMD	04-05-122
220-56-26700B	REP-E	04-13-056	220-56-370	REP	04-07-009	222-08-020	AMD	04-05-122
220-56-26700C	NEW-E	04-13-056	220-56-380	AMD	04-07-009	222-08-020	DECOD	04-05-122
220-56-270	AMD-P	04-13-005	220-56-38000G	NEW-E	04-03-010A	222-08-030	AMD	04-05-122
220-56-27000R	REP-E	04-07-116	220-56-390	AMD-P	04-13-005	222-08-030	DECOD	04-05-122
220-56-27000R	REP-E	04-07-123	220-56-39000B	NEW-E	04-05-057	222-08-035	DECOD	04-05-122
220-56-27000S	NEW-E	04-05-057	220-56-39000B	REP-E	04-13-056	222-08-040	AMD	04-05-122
220-56-27000S	REP-E	04-13-056	220-56-39000C	NEW-E	04-13-056	222-08-050	NEW	04-05-122
220-56-27000T	NEW-E	04-07-116	220-56-410	AMD-P	04-13-005	222-08-060	NEW	04-05-122
220-56-27000T	REP-E	04-07-116	220-56-41000A	NEW-E	04-05-057	222-08-070	NEW	04-05-122
220-56-27000T	REP-E	04-07-123	220-56-41000A	REP-E	04-13-056	222-08-080	NEW	04-05-122
220-56-27000U	NEW-E	04-07-123	220-56-41000B	NEW-E	04-13-056	222-08-090	NEW	04-05-122
220-56-27000U	REP-E	04-07-123	220-69-210	AMD-P	04-13-193	222-08-100	NEW	04-05-122
220-56-27000V	NEW-E	04-13-056	220-69-215	AMD-P	04-13-193	222-08-120	NEW	04-05-122

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
222-08-130	NEW	04-05-122	232-28-248	AMD	04-11-036	232-28-61900K	NEW-E	04-05-033
222-08-140	RECOD	04-05-122	232-28-271	AMD	04-03-026	232-28-61900K	REP-E	04-05-033
222-08-150	RECOD	04-05-122	232-28-272	AMD-P	04-05-109	232-28-61900K	REP-E	04-07-026
222-08-160	RECOD	04-05-122	232-28-272	AMD	04-11-036	232-28-61900K	NEW-E	04-12-013
222-12-090	AMD	04-05-087	232-28-272	AMD-P	04-13-165	232-28-61900K	REP-E	04-12-013
222-16-010	AMD	04-05-087	232-28-273	AMD-P	04-05-111	232-28-61900L	NEW-E	04-05-048
230-02-030	AMD-X	04-12-038	232-28-273	AMD	04-11-036	232-28-61900L	REP-E	04-05-048
230-02-035	AMD-X	04-12-038	232-28-282	AMD-P	04-05-111	232-28-61900L	NEW-E	04-12-033
230-04-124	AMD-W	04-05-059	232-28-282	AMD	04-11-036	232-28-61900L	REP-E	04-12-033
230-04-192	REP-P	04-05-078	232-28-285	NEW-P	04-13-170	232-28-61900M	NEW-E	04-07-007
230-04-192	REP	04-09-028	232-28-333	AMD-P	04-05-113	232-28-61900M	REP-E	04-07-007
230-04-196	REP-P	04-05-078	232-28-335	AMD-P	04-05-114	232-28-61900M	NEW-E	04-12-060
230-04-196	REP	04-09-028	232-28-335	AMD	04-11-036	232-28-61900M	REP-E	04-14-049
230-12-045	AMD-P	04-07-103	232-28-337	AMD-P	04-05-116	232-28-61900N	NEW-E	04-07-004
230-12-045	AMD	04-11-091	232-28-337	AMD	04-11-036	232-28-61900N	REP-E	04-07-004
230-12-330	AMD-P	04-11-090	232-28-341	AMD-P	04-05-112	232-28-61900N	NEW-E	04-13-035
230-12-340	AMD-P	04-11-090	232-28-341	AMD	04-11-036	232-28-61900N	REP-E	04-13-035
230-20-059	AMD	04-07-102	232-28-341	AMD-P	04-13-169	232-28-61900P	NEW-E	04-07-026
230-30-033	AMD-P	04-09-088	232-28-351	AMD-P	04-05-107	232-28-61900P	REP-E	04-07-026
230-30-072	AMD-P	04-02-045	232-28-351	AMD	04-11-036	232-28-61900P	REP-E	04-09-049
230-40-070	PREP	04-04-061	232-28-352	AMD-P	04-05-108	232-28-61900P	NEW-E	04-13-054
230-40-070	AMD-P	04-07-147	232-28-352	AMD	04-11-036	232-28-61900P	REP-E	04-13-054
230-40-070	AMD-P	04-09-087	232-28-427	REP-P	04-13-171	232-28-61900Q	NEW-E	04-07-067
230-40-070	AMD	04-11-092	232-28-428	NEW-P	04-13-171	232-28-61900Q	REP-E	04-07-067
230-40-120	AMD-C	04-04-036	232-28-515	AMD-P	04-13-166	232-28-61900Q	NEW-E	04-13-064
230-40-120	AMD	04-06-005	232-28-619	AMD	04-07-009	232-28-61900Q	REP-E	04-13-164
230-40-120	AMD-W	04-07-051	232-28-619	AMD-X	04-11-069	232-28-61900R	NEW-E	04-08-005
230-40-625	AMD-P	04-11-089	232-28-619	AMD-X	04-11-119	232-28-61900R	REP-E	04-08-005
230-40-823	AMD	04-06-058	232-28-619	AMD-P	04-13-094	232-28-61900R	REP-E	04-08-013
230-40-825	AMD-P	04-11-089	232-28-61900A	NEW-E	04-09-103	232-28-61900R	NEW-E	04-13-069
232-12-004	AMD-P	04-05-099	232-28-61900A	REP-E	04-09-103	232-28-61900S	NEW-E	04-08-013
232-12-004	AMD	04-11-036	232-28-61900A	REP-E	04-11-003	232-28-61900S	NEW-E	04-13-164
232-12-005	NEW-P	04-05-099	232-28-61900B	NEW-E	04-10-005	232-28-61900S	REP-E	04-14-008
232-12-005	NEW	04-11-036	232-28-61900B	REP-E	04-10-005	232-28-61900T	NEW-E	04-08-049
232-12-014	AMD-P	04-05-110	232-28-61900B	REP-E	04-10-036	232-28-61900T	REP-E	04-08-049
232-12-014	AMD	04-11-036	232-28-61900C	NEW-E	04-10-034	232-28-61900T	NEW-E	04-14-008
232-12-019	AMD	04-07-009	232-28-61900C	REP-E	04-13-069	232-28-61900T	REP-E	04-14-091
232-12-047	AMD-P	04-05-106	232-28-61900D	NEW-E	04-10-036	232-28-61900U	NEW-E	04-09-047
232-12-047	AMD	04-11-036	232-28-61900D	REP-E	04-10-036	232-28-61900U	REP-E	04-14-059
232-12-054	AMD-P	04-05-106	232-28-61900D	REP-E	04-11-002	232-28-61900V	NEW-E	04-09-019
232-12-054	AMD	04-11-036	232-28-61900E	NEW-E	04-10-063	232-28-61900V	REP-E	04-09-019
232-12-064	AMD-P	04-05-099	232-28-61900E	REP-E	04-12-060	232-28-61900V	NEW-E	04-14-049
232-12-064	AMD	04-11-036	232-28-61900F	REP-E	04-07-004	232-28-61900W	NEW-E	04-09-023
232-12-168	AMD	04-07-009	232-28-61900F	NEW-E	04-11-002	232-28-61900W	REP-E	04-09-023
232-12-224	REP-P	04-13-038	232-28-61900F	REP-E	04-11-073	232-28-61900W	REP-E	04-09-103
232-12-243	AMD-P	04-13-165	232-28-61900G	NEW-E	04-03-047	232-28-61900W	NEW-E	04-14-057
232-12-271	AMD-P	04-05-099	232-28-61900G	REP-E	04-03-047	232-28-61900X	NEW-E	04-09-022
232-12-271	AMD	04-11-036	232-28-61900G	REP-E	04-04-028	232-28-61900X	REP-E	04-09-022
232-12-275	AMD-P	04-13-167	232-28-61900G	NEW-E	04-11-003	232-28-61900X	NEW-E	04-14-059
232-12-31500K	REP-E	04-08-065	232-28-61900G	REP-E	04-11-003	232-28-61900Y	NEW-E	04-09-048
232-12-31500L	NEW-E	04-08-065	232-28-61900H	NEW-E	04-04-028	232-28-61900Y	REP-E	04-11-072
232-12-31500L	REP-E	04-08-065	232-28-61900H	REP-E	04-04-028	232-28-61900Z	NEW-E	04-09-049
232-12-619	AMD	04-07-009	232-28-61900H	REP-E	04-05-032	232-28-61900Z	REP-E	04-09-049
232-12-619	AMD-X	04-11-119	232-28-61900H	NEW-E	04-11-021	232-28-61900Z	REP-E	04-10-005
232-12-619	AMD-P	04-13-094	232-28-61900H	REP-E	04-11-021	232-28-61900Z	NEW-E	04-14-091
232-12-61900V	NEW-E	04-10-034	232-28-61900I	NEW-E	04-04-060	232-28-620	AMD-X	04-11-079
232-12-828	AMD-P	04-05-106	232-28-61900I	NEW-E	04-11-050	232-28-62000P	NEW-E	04-10-034
232-12-828	AMD	04-11-036	232-28-61900I	REP-E	04-11-050	232-28-62000P	REP-E	04-13-142
232-16-270	REP-P	04-13-168	232-28-61900J	NEW-E	04-05-015	232-28-62000Q	NEW-E	04-13-142
232-16-610	NEW-P	04-13-168	232-28-61900J	REP-E	04-05-015	232-28-621	AMD-X	04-11-079
232-16-740	AMD-P	04-13-168	232-28-61900J	NEW-E	04-11-076	232-28-62100N	NEW-E	04-10-034
232-28-248	AMD-P	04-05-115	232-28-61900J	REP-E	04-11-076	232-28-62100N	REP-E	04-13-068

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
232-28-62100P	NEW-E	04-13-068	246-217-015	PREP-W	04-06-020	246-260-100	REP-P	04-08-099
236-12-290	AMD-P	04-05-101	246-232-020	AMD	04-04-055	246-260-101	NEW-P	04-08-099
236-12-470	PREP	04-10-112	246-232-040	AMD	04-04-055	246-260-110	REP-P	04-08-099
236-51-001	NEW	04-07-104	246-232-050	AMD	04-04-055	246-260-111	NEW-P	04-08-099
236-51-005	NEW	04-07-104	246-232-060	AMD	04-04-055	246-260-120	REP-P	04-08-099
236-51-006	NEW	04-07-104	246-233-001	AMD	04-04-055	246-260-121	NEW-P	04-08-099
236-51-010	NEW	04-07-104	246-233-005	NEW	04-04-055	246-260-130	REP-P	04-08-099
236-51-100	NEW	04-07-104	246-233-015	NEW	04-04-055	246-260-131	NEW-P	04-08-099
236-51-110	NEW	04-07-104	246-233-020	AMD	04-04-055	246-260-140	REP-P	04-08-099
236-51-115	NEW	04-07-104	246-233-025	NEW	04-04-055	246-260-141	NEW-P	04-08-099
236-51-120	NEW	04-07-104	246-233-030	NEW	04-04-055	246-260-150	REP-P	04-08-099
236-51-200	NEW	04-07-104	246-233-035	NEW	04-04-055	246-260-151	NEW-P	04-08-099
236-51-205	NEW	04-07-104	246-233-040	NEW	04-04-055	246-260-160	REP-P	04-08-099
236-51-210	NEW	04-07-104	246-235-093	AMD	04-04-055	246-260-170	REP-P	04-08-099
236-51-215	NEW	04-07-104	246-235-095	AMD	04-04-055	246-260-171	NEW-P	04-08-099
236-51-220	NEW	04-07-104	246-235-097	AMD	04-04-055	246-260-181	NEW-P	04-08-099
236-51-225	NEW	04-07-104	246-239-080	AMD	04-04-055	246-260-191	NEW-P	04-08-099
236-51-300	NEW	04-07-104	246-247-010	AMD-P	04-07-180	246-260-200	REP-P	04-08-099
236-51-302	NEW	04-07-104	246-247-040	AMD-P	04-07-180	246-260-201	NEW-P	04-08-099
236-51-305	NEW	04-07-104	246-247-045	NEW-P	04-07-180	246-260-210	REP-P	04-08-099
236-51-306	NEW	04-07-104	246-247-075	AMD-W	04-02-067	246-260-211	NEW-P	04-08-099
236-51-310	NEW	04-07-104	246-247-075	AMD-P	04-07-180	246-260-220	REP-P	04-08-099
236-51-320	NEW	04-07-104	246-247-080	AMD-P	04-07-180	246-260-221	NEW-P	04-08-099
236-51-400	NEW	04-07-104	246-247-085	AMD-P	04-07-180	246-260-230	REP-P	04-08-099
236-51-405	NEW	04-07-104	246-247-110	AMD-W	04-02-067	246-260-240	REP-P	04-08-099
236-51-410	NEW	04-07-104	246-247-110	AMD-P	04-07-180	246-260-250	REP-P	04-08-099
236-51-500	NEW	04-07-104	246-247-120	AMD-W	04-02-067	246-260-260	REP-P	04-08-099
236-51-502	NEW	04-07-104	246-247-120	AMD-P	04-07-180	246-260-999	NEW-P	04-08-099
236-51-505	NEW	04-07-104	246-247-130	AMD-W	04-02-067	246-260-99901	NEW-P	04-08-099
236-51-510	NEW	04-07-104	246-247-130	AMD-P	04-07-180	246-260-99902	NEW-P	04-08-099
236-51-515	NEW	04-07-104	246-254-053	AMD-P	04-07-181	246-272B	PREP	04-03-010
236-51-600	NEW	04-07-104	246-254-053	AMD	04-12-125	246-282-990	AMD-P	04-11-098
236-51-605	NEW	04-07-104	246-254-070	AMD-P	04-07-175	246-290	PREP	04-06-044
236-51-610	NEW	04-07-104	246-254-070	AMD	04-12-124	246-290-010	AMD	04-04-056
236-51-615	NEW	04-07-104	246-254-080	AMD-P	04-07-175	246-290-025	AMD	04-04-056
236-51-620	NEW	04-07-104	246-254-080	AMD	04-12-124	246-290-130	AMD	04-04-056
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236-51-715	NEW	04-07-104	246-254-090	AMD	04-12-124	246-290-320	AMD	04-04-056
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288- 02-030	NEW-X	04-14-019	296- 20-01002	AMD	04-08-040	296- 23-382	NEW	04-04-029
292- 10-040	AMD-X	04-12-005	296- 20-01002	AMD-E	04-13-063	296- 23-387	NEW	04-04-029
292-110-060	AMD-P	04-12-077	296- 20-01002	PREP	04-13-131	296- 23-392	NEW	04-04-029
296- 05-007	AMD-P	04-04-014	296- 20-01501	AMD-E	04-13-063	296- 24	PREP	04-05-074
296- 05-007	AMD	04-10-032	296- 20-01501	PREP	04-13-131	296- 24	PREP	04-06-078
296- 05-008	NEW-P	04-04-014	296- 20-01502	NEW-E	04-13-063	296- 24	PREP	04-07-154
296- 05-008	NEW	04-10-032	296- 20-01502	PREP	04-13-131	296- 24	PREP	04-07-157
296- 14-400	AMD-E	04-13-063	296- 20-02704	AMD-P	04-03-082	296- 24	PREP	04-08-090
296- 14-400	PREP	04-13-131	296- 20-02704	AMD	04-08-040	296- 24	PREP	04-11-062
296- 14-4121	NEW-P	04-14-082	296- 20-02705	AMD-P	04-03-082	296- 24-012	AMD	04-07-161
296- 14-4122	NEW-P	04-14-082	296- 20-02705	AMD	04-08-040	296- 24-110	REP-P	04-03-102
296- 14-4123	NEW-P	04-14-082	296- 20-03011	AMD-P	04-03-082	296- 24-11001	REP-P	04-03-102
296- 14-4124	NEW-P	04-14-082	296- 20-03011	AMD	04-08-040	296- 24-11003	REP-P	04-03-102
296- 14-4125	NEW-P	04-14-082	296- 20-03012	AMD-P	04-03-082	296- 24-11005	REP-P	04-03-102
296- 14-4126	NEW-P	04-14-082	296- 20-03012	AMD	04-08-040	296- 24-11007	REP-P	04-03-102
296- 14-4127	NEW-P	04-14-082	296- 20-06101	AMD-E	04-13-063	296- 24-11009	REP-P	04-03-102
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296- 14-4129	NEW-P	04-14-082	296- 20-135	AMD-P	04-05-075	296- 24-11013	REP-P	04-03-102
296- 17	PREP	04-04-098	296- 20-135	AMD	04-09-100	296- 24-11015	REP-P	04-03-102
296- 17	PREP	04-04-100	296- 20-200	AMD	04-04-029	296- 24-11017	REP-P	04-03-102
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296- 17-31002	AMD-P	04-13-128	296- 20-2020	NEW-W	04-10-072	296- 24-135	REP-X	04-12-069
296- 17-31004	AMD-P	04-14-081	296- 20-2025	NEW	04-04-029	296- 24-13501	REP-X	04-12-069
296- 17-310041	NEW-P	04-14-081	296- 20-2030	NEW	04-04-029	296- 24-140	REP-X	04-12-069
296- 17-310042	NEW-P	04-14-081	296- 20-210	REP	04-04-029	296- 24-14001	REP-X	04-12-069
296- 17-310043	NEW-P	04-14-081	296- 23-220	AMD-P	04-05-075	296- 24-14003	REP-X	04-12-069
296- 17-310044	NEW-P	04-14-081	296- 23-220	AMD	04-09-100	296- 24-14005	REP-X	04-12-069
296- 17-310045	NEW-P	04-14-081	296- 23-230	AMD-P	04-05-075	296- 24-14007	REP-X	04-12-069
296- 17-310046	NEW-P	04-14-081	296- 23-230	AMD	04-09-100	296- 24-14009	REP-X	04-12-069
296- 17-310047	NEW-P	04-14-081	296- 23-240	AMD-E	04-13-063	296- 24-14011	REP-X	04-12-069
296- 17-31009	AMD-P	04-13-128	296- 23-240	PREP	04-13-131	296- 24-150	REP-P	04-03-085
296- 17-31013	AMD-P	04-07-122	296- 23-241	NEW-E	04-13-063	296- 24-150	REP	04-14-028
296- 17-31013	AMD	04-13-017	296- 23-241	PREP	04-13-131	296- 24-15001	REP-P	04-03-085
296- 17-31013	AMD-P	04-13-128	296- 23-255	REP	04-04-029	296- 24-15001	REP	04-14-028
296- 17-31013	AMD-P	04-14-081	296- 23-260	REP	04-04-029	296- 24-15003	REP-P	04-03-085
296- 17-31014	AMD-P	04-13-128	296- 23-265	REP	04-04-029	296- 24-15003	REP	04-14-028
296- 17-31024	AMD-P	04-13-128	296- 23-26501	REP	04-04-029	296- 24-15005	REP-P	04-03-085
296- 17-31025	AMD-P	04-13-128	296- 23-26502	REP	04-04-029	296- 24-15005	REP	04-14-028
296- 17-31030	NEW-P	04-14-081	296- 23-26503	REP	04-04-029	296- 24-15007	REP-P	04-03-085
296- 17-31031	NEW-P	04-14-081	296- 23-26504	REP	04-04-029	296- 24-15007	REP	04-14-028
296- 17-31032	NEW-P	04-14-081	296- 23-26505	REP	04-04-029	296- 24-15009	REP-P	04-03-085
296- 17-31033	NEW-P	04-14-081	296- 23-26506	REP	04-04-029	296- 24-15009	REP	04-14-028
296- 17-517	AMD-P	04-14-081	296- 23-267	REP	04-04-029	296- 24-165	REP-P	04-03-085
296- 17-52002	AMD-P	04-14-081	296- 23-270	REP	04-04-029	296- 24-165	REP	04-14-028

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296-24-16503	REP-P	04-03-085	296-24-19011	REP-P	04-03-085	296-24-20509	REP-P	04-03-085
296-24-16503	REP	04-14-028	296-24-19011	REP	04-14-028	296-24-20509	REP	04-14-028
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296-24-16511	REP	04-14-028	296-24-19501	REP	04-14-028	296-24-20517	REP	04-14-028
296-24-16513	REP-P	04-03-085	296-24-19503	REP-P	04-03-085	296-24-20519	REP-P	04-03-085
296-24-16513	REP	04-14-028	296-24-19503	REP	04-14-028	296-24-20519	REP	04-14-028
296-24-16515	REP-P	04-03-085	296-24-19505	REP-P	04-03-085	296-24-20521	REP-P	04-03-085
296-24-16515	REP	04-14-028	296-24-19505	REP	04-14-028	296-24-20521	REP	04-14-028
296-24-16517	REP-P	04-03-085	296-24-19507	REP-P	04-03-085	296-24-20523	REP-P	04-03-085
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296-24-16521	REP-P	04-03-085	296-24-19511	REP-P	04-03-085	296-24-20527	REP-P	04-03-085
296-24-16521	REP	04-14-028	296-24-19511	REP	04-14-028	296-24-20527	REP	04-14-028
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296-24-16531	REP-P	04-03-085	296-24-200	REP-P	04-03-085	296-24-20700	REP-P	04-03-085
296-24-16531	REP	04-14-028	296-24-200	REP	04-14-028	296-24-20700	REP	04-14-028
296-24-16533	REP-P	04-03-085	296-24-20001	REP-P	04-03-085	296-24-20710	REP-P	04-03-085
296-24-16533	REP	04-14-028	296-24-20001	REP	04-14-028	296-24-20710	REP	04-14-028
296-24-16535	REP-P	04-03-085	296-24-20003	REP-P	04-03-085	296-24-20720	REP-P	04-03-085
296-24-16535	REP	04-14-028	296-24-20003	REP	04-14-028	296-24-20720	REP	04-14-028
296-24-16537	REP-P	04-03-085	296-24-20005	REP-P	04-03-085	296-24-20730	REP-P	04-03-085
296-24-16537	REP	04-14-028	296-24-20005	REP	04-14-028	296-24-20730	REP	04-14-028
296-24-16539	REP-P	04-03-085	296-24-20007	REP-P	04-03-085	296-24-21701	REP-P	04-12-071
296-24-16539	REP	04-14-028	296-24-20007	REP	04-14-028	296-24-21703	REP-P	04-12-071
296-24-180	REP-P	04-03-085	296-24-20009	REP-P	04-03-085	296-24-21707	REP-P	04-12-071
296-24-180	REP	04-14-028	296-24-20009	REP	04-14-028	296-24-21709	REP-P	04-12-071
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296-24-18001	REP	04-14-028	296-24-20011	REP	04-14-028	296-24-21713	REP-P	04-12-071
296-24-18003	REP-P	04-03-085	296-24-20013	REP-P	04-03-085	296-24-230	REP-P	04-08-039
296-24-18003	REP	04-14-028	296-24-20013	REP	04-14-028	296-24-23001	REP-P	04-08-039
296-24-18005	REP-P	04-03-085	296-24-20015	REP-P	04-03-085	296-24-23003	REP-P	04-08-039
296-24-18005	REP	04-14-028	296-24-20015	REP	04-14-028	296-24-23005	REP-P	04-08-039
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296-24-18007	REP	04-14-028	296-24-20017	REP	04-14-028	296-24-23009	REP-P	04-08-039
296-24-18009	REP-P	04-03-085	296-24-20019	REP-P	04-03-085	296-24-23011	REP-P	04-08-039
296-24-18009	REP	04-14-028	296-24-20019	REP	04-14-028	296-24-23013	REP-P	04-08-039
296-24-190	REP-P	04-03-085	296-24-20021	REP-P	04-03-085	296-24-23015	REP-P	04-08-039
296-24-190	REP	04-14-028	296-24-20021	REP	04-14-028	296-24-23017	REP-P	04-08-039
296-24-19001	REP-P	04-03-085	296-24-205	REP-P	04-03-085	296-24-23019	REP-P	04-08-039
296-24-19001	REP	04-14-028	296-24-205	REP	04-14-028	296-24-23021	REP-P	04-08-039
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296-24-19003	REP	04-14-028	296-24-20501	REP	04-14-028	296-24-23025	REP-P	04-08-039
296-24-19005	REP-P	04-03-085	296-24-20503	REP-P	04-03-085	296-24-23027	REP-P	04-08-039
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296-24-19007	REP-P	04-03-085	296-24-20505	REP-P	04-03-085	296-24-23031	REP-P	04-08-039
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296-24-23037	REP-P	04-08-039	296-46B-410	AMD-P	04-08-088	296-62-05215	REP	04-10-026
296-24-233	AMD-P	04-12-071	296-46B-410	AMD	04-12-049	296-62-05217	REP	04-10-026
296-24-260	REP	04-09-099	296-46B-430	AMD-P	04-08-088	296-62-05219	REP	04-10-026
296-24-33009	AMD-X	04-12-069	296-46B-430	AMD	04-12-049	296-62-05221	REP	04-10-026
296-24-37013	AMD-X	04-12-069	296-46B-900	AMD-P	04-08-088	296-62-05223	REP	04-10-026
296-24-47511	AMD-P	04-08-039	296-46B-900	AMD	04-12-049	296-62-05305	AMD-P	04-07-159
296-24-56527	AMD	04-07-161	296-46B-900	PREP	04-14-088	296-62-05305	AMD	04-14-026
296-24-61703	AMD	04-07-161	296-46B-905	AMD-P	04-08-088	296-62-07314	AMD	04-10-026
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296-24-69003	AMD	04-14-028	296-46B-910	AMD	04-12-049	296-62-07375	AMD	04-10-026
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296-24-86005	REP-P	04-14-027	296-46B-915	AMD-P	04-08-088	296-62-07470	AMD	04-10-026
296-24-86010	REP-P	04-14-027	296-46B-915	AMD	04-12-049	296-62-07521	AMD	04-10-026
296-24-86015	REP-P	04-14-027	296-46B-915	PREP	04-14-088	296-62-07540	AMD	04-10-026
296-24-86020	REP-P	04-14-027	296-46B-920	AMD-P	04-08-088	296-62-07631	AMD	04-10-026
296-24-861	REP-P	04-14-027	296-46B-920	AMD	04-12-049	296-62-07727	AMD	04-10-026
296-24-86105	REP-P	04-14-027	296-46B-925	AMD-P	04-08-088	296-62-09041	AMD	04-10-026
296-24-86110	REP-P	04-14-027	296-46B-925	AMD	04-12-049	296-62-141	AMD	04-03-081
296-24-86115	REP-P	04-14-027	296-46B-925	PREP	04-14-088	296-62-14533	AMD	04-10-026
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296-24-86125	REP-P	04-14-027	296-46B-930	AMD	04-12-049	296-62-300	AMD	04-02-053
296-24-86130	REP-P	04-14-027	296-46B-935	AMD-P	04-08-088	296-62-40019	AMD	04-10-026
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296-24-95603	AMD	04-07-161	296-46B-945	AMD	04-12-049	296-78-590	AMD-P	04-03-085
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296-24-980	AMD-X	04-12-069	296-46B-950	AMD	04-12-049	296-78-605	AMD-P	04-03-085
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296-30-081	AMD-P	04-08-091	296-46B-970	AMD	04-12-049	296-78-615	AMD-P	04-03-085
296-30-081	AMD	04-14-069	296-46B-970	PREP	04-14-088	296-78-615	AMD	04-14-028
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296-31-070	AMD	04-14-069	296-46B-990	AMD	04-12-049	296-78-650	AMD	04-14-028
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296-46B-020	AMD	04-12-049	296-56-60243	AMD-X	04-05-072	296-78-71007	AMD-P	04-03-085
296-46B-030	AMD-P	04-08-088	296-56-60243	AMD	04-11-066	296-78-71007	AMD	04-14-028
296-46B-030	AMD	04-12-049	296-59-130	AMD-P	04-03-085	296-78-71017	AMD-P	04-03-085
296-46B-110	AMD-P	04-08-088	296-59-130	AMD	04-14-028	296-78-71017	AMD	04-14-028
296-46B-110	AMD	04-12-049	296-62	PREP	04-05-073	296-78-71505	AMD-P	04-03-085
296-46B-210	AMD-P	04-08-088	296-62	PREP	04-07-155	296-78-71505	AMD	04-14-028
296-46B-210	AMD	04-12-049	296-62	PREP	04-07-156	296-79-030	AMD-P	04-03-085
296-46B-250	AMD-P	04-08-088	296-62	PREP	04-09-097	296-79-030	AMD	04-14-028
296-46B-250	AMD	04-12-049	296-62-052	REP	04-10-026	296-79-220	AMD-P	04-03-102
296-46B-300	AMD-P	04-08-088	296-62-05201	REP	04-10-026	296-96-00500	AMD-P	04-08-087
296-46B-300	AMD	04-12-049	296-62-05203	REP	04-10-026	296-96-00500	AMD	04-12-047
296-46B-314	AMD-P	04-08-088	296-62-05205	REP	04-10-026	296-96-00600	AMD-P	04-08-087
296-46B-314	AMD	04-12-049	296-62-05207	REP	04-10-026	296-96-00600	AMD	04-12-047
296-46B-334	AMD-P	04-08-088	296-62-05209	REP	04-10-026	296-96-00650	AMD-P	04-08-087

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-96-00650	AMD	04-12-047	296-96-02232	NEW	04-12-047	296-96-02371	NEW-P	04-08-087
296-96-00700	AMD-P	04-08-087	296-96-02235	NEW-P	04-08-087	296-96-02371	NEW	04-12-047
296-96-00700	AMD	04-12-047	296-96-02235	NEW	04-12-047	296-96-05010	AMD-P	04-08-087
296-96-00800	AMD-P	04-08-087	296-96-02240	AMD-P	04-08-087	296-96-05010	AMD	04-12-047
296-96-00800	AMD	04-12-047	296-96-02240	AMD	04-12-047	296-96-05030	AMD-P	04-08-087
296-96-00805	NEW-P	04-08-087	296-96-02275	AMD-P	04-08-087	296-96-05030	AMD	04-12-047
296-96-00805	NEW	04-12-047	296-96-02275	AMD	04-12-047	296-96-05070	AMD-P	04-08-087
296-96-00900	NEW-P	04-08-087	296-96-02276	NEW-P	04-08-087	296-96-05070	AMD	04-12-047
296-96-00900	NEW	04-12-047	296-96-02276	NEW	04-12-047	296-96-05160	AMD-P	04-08-087
296-96-00902	NEW-P	04-08-087	296-96-02277	AMD-P	04-08-087	296-96-05160	AMD	04-12-047
296-96-00902	NEW	04-12-047	296-96-02277	AMD	04-12-047	296-96-05170	AMD-P	04-08-087
296-96-00903	NEW-P	04-08-087	296-96-02278	AMD-P	04-08-087	296-96-05170	AMD	04-12-047
296-96-00903	NEW	04-12-047	296-96-02278	AMD	04-12-047	296-96-05230	AMD-P	04-08-087
296-96-00904	NEW-P	04-08-087	296-96-02280	AMD-P	04-08-087	296-96-05230	AMD	04-12-047
296-96-00904	NEW	04-12-047	296-96-02280	AMD	04-12-047	296-96-05290	AMD-P	04-08-087
296-96-00906	NEW-P	04-08-087	296-96-02281	AMD-P	04-08-087	296-96-05290	AMD	04-12-047
296-96-00906	NEW	04-12-047	296-96-02281	AMD	04-12-047	296-96-07010	AMD-P	04-08-087
296-96-00910	NEW-P	04-08-087	296-96-02282	NEW-P	04-08-087	296-96-07010	AMD	04-12-047
296-96-00910	NEW	04-12-047	296-96-02282	NEW	04-12-047	296-96-07021	NEW-P	04-08-087
296-96-00912	NEW-P	04-08-087	296-96-02283	NEW-P	04-08-087	296-96-07021	NEW	04-12-047
296-96-00912	NEW	04-12-047	296-96-02283	NEW	04-12-047	296-96-07024	NEW-P	04-08-087
296-96-00914	NEW-P	04-08-087	296-96-02285	NEW-P	04-08-087	296-96-07024	NEW	04-12-047
296-96-00914	NEW	04-12-047	296-96-02285	NEW	04-12-047	296-96-07080	AMD-P	04-08-087
296-96-00916	NEW-P	04-08-087	296-96-02290	NEW-P	04-08-087	296-96-07080	AMD	04-12-047
296-96-00916	NEW	04-12-047	296-96-02290	NEW	04-12-047	296-96-07100	AMD-P	04-08-087
296-96-00918	NEW-P	04-08-087	296-96-02310	AMD-P	04-08-087	296-96-07100	AMD	04-12-047
296-96-00918	NEW	04-12-047	296-96-02310	AMD	04-12-047	296-96-07170	AMD-P	04-08-087
296-96-00920	NEW-P	04-08-087	296-96-02315	AMD-P	04-08-087	296-96-07170	AMD	04-12-047
296-96-00920	NEW	04-12-047	296-96-02315	AMD	04-12-047	296-96-07180	AMD-P	04-08-087
296-96-00922	NEW-P	04-08-087	296-96-02317	NEW-P	04-08-087	296-96-07180	AMD	04-12-047
296-96-00922	NEW	04-12-047	296-96-02317	NEW	04-12-047	296-96-07190	AMD-P	04-08-087
296-96-00924	NEW-P	04-08-087	296-96-02318	NEW-P	04-08-087	296-96-07190	AMD	04-12-047
296-96-00924	NEW	04-12-047	296-96-02318	NEW	04-12-047	296-96-07200	AMD-P	04-08-087
296-96-00926	NEW-P	04-08-087	296-96-02320	AMD-P	04-08-087	296-96-07200	AMD	04-12-047
296-96-00926	NEW	04-12-047	296-96-02320	AMD	04-12-047	296-96-07215	NEW-P	04-08-087
296-96-00930	NEW-P	04-08-087	296-96-02325	AMD-P	04-08-087	296-96-07215	NEW	04-12-047
296-96-00930	NEW	04-12-047	296-96-02325	AMD	04-12-047	296-96-07230	AMD-P	04-08-087
296-96-01000	AMD-P	04-08-087	296-96-02330	AMD-P	04-08-087	296-96-07230	AMD	04-12-047
296-96-01000	AMD	04-12-047	296-96-02330	AMD	04-12-047	296-96-07250	AMD-P	04-08-087
296-96-01005	AMD-P	04-08-087	296-96-02340	AMD-P	04-08-087	296-96-07250	AMD	04-12-047
296-96-01005	AMD	04-12-047	296-96-02340	AMD	04-12-047	296-96-08010	AMD-P	04-08-087
296-96-01006	NEW-P	04-08-087	296-96-02350	AMD-P	04-08-087	296-96-08010	AMD	04-12-047
296-96-01006	NEW	04-12-047	296-96-02350	AMD	04-12-047	296-96-08020	AMD-P	04-08-087
296-96-01007	NEW-P	04-08-087	296-96-02355	AMD-P	04-11-063	296-96-08020	AMD	04-12-047
296-96-01007	NEW	04-12-047	296-96-02360	AMD-P	04-08-087	296-96-08022	NEW-P	04-08-087
296-96-01009	NEW-P	04-08-087	296-96-02360	AMD	04-12-047	296-96-08022	NEW	04-12-047
296-96-01009	NEW	04-12-047	296-96-02361	NEW-P	04-08-087	296-96-08024	NEW-P	04-08-087
296-96-01010	AMD-P	04-08-087	296-96-02361	NEW	04-12-047	296-96-08024	NEW	04-12-047
296-96-01010	AMD	04-12-047	296-96-02362	NEW-P	04-08-087	296-96-08030	AMD-P	04-08-087
296-96-01027	AMD-P	04-08-087	296-96-02362	NEW	04-12-047	296-96-08030	AMD	04-12-047
296-96-01027	AMD	04-12-047	296-96-02363	NEW-P	04-08-087	296-96-08050	AMD-P	04-08-087
296-96-01035	AMD-P	04-08-087	296-96-02363	NEW	04-12-047	296-96-08050	AMD	04-12-047
296-96-01035	AMD	04-12-047	296-96-02364	NEW-P	04-08-087	296-96-08060	AMD-P	04-08-087
296-96-01070	AMD-P	04-08-087	296-96-02364	NEW	04-12-047	296-96-08060	AMD	04-12-047
296-96-01070	AMD	04-12-047	296-96-02365	REP-P	04-08-087	296-96-08090	AMD-P	04-08-087
296-96-01075	NEW-P	04-08-087	296-96-02365	REP	04-12-047	296-96-08090	AMD	04-12-047
296-96-01075	NEW	04-12-047	296-96-02366	NEW-P	04-08-087	296-96-08100	AMD-P	04-08-087
296-96-01080	REP-P	04-08-087	296-96-02366	NEW	04-12-047	296-96-08100	AMD	04-12-047
296-96-01080	REP	04-12-047	296-96-02367	NEW-P	04-08-087	296-96-08110	AMD-P	04-08-087
296-96-02230	NEW-P	04-08-087	296-96-02367	NEW	04-12-047	296-96-08110	AMD	04-12-047
296-96-02230	NEW	04-12-047	296-96-02370	NEW-P	04-08-087	296-96-08140	AMD-P	04-08-087
296-96-02232	NEW-P	04-08-087	296-96-02370	NEW	04-12-047	296-96-08140	AMD	04-12-047

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-96-08150	AMD-P	04-08-087	296-96-13153	NEW-P	04-08-087	296-150F-3000	AMD-P	04-08-092
296-96-08150	AMD	04-12-047	296-96-13153	NEW	04-12-047	296-150F-3000	AMD	04-12-048
296-96-08160	AMD-P	04-08-087	296-96-13155	NEW-P	04-08-087	296-150M	PREP	04-13-132
296-96-08160	AMD	04-12-047	296-96-13155	NEW	04-12-047	296-150M-3000	AMD-P	04-08-092
296-96-08170	AMD-P	04-08-087	296-96-13157	NEW-P	04-08-087	296-150M-3000	AMD	04-12-048
296-96-08170	AMD	04-12-047	296-96-13157	NEW	04-12-047	296-150P	PREP	04-13-132
296-96-08175	AMD-P	04-08-087	296-96-13159	NEW-P	04-08-087	296-150P-3000	AMD-P	04-08-092
296-96-08175	AMD	04-12-047	296-96-13159	NEW	04-12-047	296-150P-3000	AMD	04-12-048
296-96-08180	AMD-P	04-08-087	296-96-13161	NEW-P	04-08-087	296-150R	PREP	04-13-132
296-96-08180	AMD	04-12-047	296-96-13161	NEW	04-12-047	296-150R-3000	AMD-P	04-08-092
296-96-08190	AMD-P	04-08-087	296-96-13167	NEW-P	04-08-087	296-150R-3000	AMD	04-12-048
296-96-08190	AMD	04-12-047	296-96-13167	NEW	04-12-047	296-150T	PREP	04-13-132
296-96-08200	AMD-P	04-08-087	296-96-13169	NEW-P	04-08-087	296-150T-3000	AMD-P	04-08-092
296-96-08200	AMD	04-12-047	296-96-13169	NEW	04-12-047	296-150T-3000	AMD	04-12-048
296-96-08215	NEW-P	04-08-087	296-96-13171	NEW-P	04-08-087	296-150V	PREP	04-13-132
296-96-08215	NEW	04-12-047	296-96-13171	NEW	04-12-047	296-150V-3000	AMD-P	04-08-092
296-96-08220	AMD-P	04-08-087	296-96-14045	AMD-P	04-08-087	296-150V-3000	AMD	04-12-048
296-96-08220	AMD	04-12-047	296-96-14045	AMD	04-12-047	296-155	PREP	04-03-084
296-96-08230	AMD-P	04-08-087	296-96-14060	AMD-P	04-08-087	296-155	PREP	04-05-074
296-96-08230	AMD	04-12-047	296-96-14060	AMD	04-12-047	296-155	PREP	04-11-062
296-96-08250	AMD-P	04-08-087	296-96-14070	AMD-P	04-08-087	296-155-120	AMD	04-07-160
296-96-08250	AMD	04-12-047	296-96-14070	AMD	04-12-047	296-155-165	AMD-P	04-14-083
296-96-09002	AMD-P	04-08-087	296-96-14080	AMD-P	04-08-087	296-155-17331	AMD	04-10-026
296-96-09002	AMD	04-12-047	296-96-14080	AMD	04-12-047	296-155-174	AMD	04-10-026
296-96-09003	NEW-P	04-08-087	296-96-16040	AMD-P	04-08-087	296-155-200	AMD-P	04-14-083
296-96-09003	NEW	04-12-047	296-96-16040	AMD	04-12-047	296-155-300	REP-X	04-12-069
296-96-09004	NEW-P	04-08-087	296-96-16150	AMD-P	04-08-087	296-155-300	AMD-P	04-14-083
296-96-09004	NEW	04-12-047	296-96-16150	AMD	04-12-047	296-155-305	AMD-P	04-14-083
296-96-10002	NEW-P	04-08-087	296-96-23100	AMD-P	04-08-087	296-155-310	AMD-P	04-14-083
296-96-10002	NEW	04-12-047	296-96-23100	AMD	04-12-047	296-155-315	AMD-P	04-14-083
296-96-11000	REP-P	04-08-087	296-96-23101	AMD-P	04-08-087	296-155-429	AMD-P	04-03-102
296-96-11000	REP	04-12-047	296-96-23101	AMD	04-12-047	296-155-481	REP-P	04-14-027
296-96-11001	AMD-P	04-08-087	296-96-23117	NEW-P	04-08-087	296-155-482	REP-P	04-14-027
296-96-11001	AMD	04-12-047	296-96-23117	NEW	04-12-047	296-155-483	REP-P	04-14-027
296-96-11016	AMD-P	04-08-087	296-96-23118	NEW-P	04-08-087	296-155-484	REP-P	04-14-027
296-96-11016	AMD	04-12-047	296-96-23118	NEW	04-12-047	296-155-485	REP-P	04-14-027
296-96-11019	AMD-P	04-08-087	296-96-23119	NEW-P	04-08-087	296-155-487	AMD-P	04-03-085
296-96-11019	AMD	04-12-047	296-96-23119	NEW	04-12-047	296-155-487	REP-P	04-14-027
296-96-11022	AMD-P	04-08-087	296-96-23151	AMD-P	04-08-087	296-155-487	AMD	04-14-028
296-96-11022	AMD	04-12-047	296-96-23151	AMD	04-12-047	296-155-488	AMD-P	04-03-085
296-96-11045	AMD-P	04-08-087	296-96-23240	AMD-P	04-08-087	296-155-488	REP-P	04-14-027
296-96-11045	AMD	04-12-047	296-96-23240	AMD	04-12-047	296-155-488	AMD	04-14-028
296-96-11057	AMD-P	04-08-087	296-96-23270	AMD-P	04-08-087	296-155-489	REP-P	04-14-027
296-96-11057	AMD	04-12-047	296-96-23270	AMD	04-12-047	296-155-490	REP-P	04-14-027
296-96-11078	AMD-P	04-08-087	296-96-23287	AMD-P	04-08-087	296-155-493	REP-P	04-14-027
296-96-11078	AMD	04-12-047	296-96-23287	AMD	04-12-047	296-155-494	REP-P	04-14-027
296-96-11080	NEW-P	04-08-087	296-96-23303	NEW-P	04-11-063	296-155-496	REP-P	04-14-027
296-96-11080	NEW	04-12-047	296-96-23610	AMD-P	04-08-087	296-155-497	REP-P	04-14-027
296-96-13135	NEW-P	04-08-087	296-96-23610	AMD	04-12-047	296-155-498	REP-P	04-14-027
296-96-13135	NEW	04-12-047	296-104	PREP	04-08-114	296-155-525	AMD-P	04-03-085
296-96-13139	NEW-P	04-08-087	296-104-700	AMD-P	04-08-115	296-155-525	AMD	04-14-028
296-96-13139	NEW	04-12-047	296-104-700	AMD	04-13-044	296-155-575	REP	04-09-099
296-96-13143	NEW-P	04-08-087	296-115-050	AMD-P	04-03-085	296-155-576	REP	04-09-099
296-96-13143	NEW	04-12-047	296-115-050	AMD	04-14-028	296-155-610	AMD-E	04-10-107
296-96-13145	NEW-P	04-08-087	296-127	PREP	04-06-063	296-155-610	AMD-P	04-14-083
296-96-13145	NEW	04-12-047	296-127-011	AMD-X	04-03-083	296-155-615	AMD-P	04-14-083
296-96-13147	NEW-P	04-08-087	296-127-011	AMD	04-10-083	296-155-617	PREP	04-07-154
296-96-13147	NEW	04-12-047	296-127-01377	AMD-P	04-12-068	296-155-617	REP-P	04-12-071
296-96-13149	NEW-P	04-08-087	296-150C	PREP	04-13-132	296-155-61701	REP-P	04-12-071
296-96-13149	NEW	04-12-047	296-150C-3000	AMD-P	04-08-092	296-155-61703	REP-P	04-12-071
296-96-13151	NEW-P	04-08-087	296-150C-3000	AMD	04-12-048	296-155-61705	REP-P	04-12-071
296-96-13151	NEW	04-12-047	296-150F	PREP	04-13-132	296-155-61707	REP-P	04-12-071

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296-155-61709	REP-P	04-12-071	296-302-06501	REP-P	04-03-085	296-400A-029	NEW-P	04-08-089
296-155-61711	REP-P	04-12-071	296-302-06501	REP	04-14-028	296-400A-029	NEW	04-12-046
296-155-61713	REP-P	04-12-071	296-302-06503	REP-P	04-03-085	296-400A-030	AMD-P	04-08-089
296-155-655	AMD-P	04-14-083	296-302-06503	REP	04-14-028	296-400A-030	AMD	04-12-046
296-155-682	AMD-P	04-03-085	296-302-06505	REP-P	04-03-085	296-400A-031	AMD-P	04-08-089
296-155-682	AMD	04-14-028	296-302-06505	REP	04-14-028	296-400A-031	AMD	04-12-046
296-200A-900	AMD-P	04-08-092	296-302-06507	REP-P	04-03-085	296-400A-035	AMD-P	04-08-089
296-200A-900	AMD	04-12-048	296-302-06507	REP	04-14-028	296-400A-035	AMD	04-12-046
296-301-020	AMD-P	04-03-085	296-302-06509	REP-P	04-03-085	296-400A-045	AMD-P	04-08-089
296-301-020	PREP	04-06-078	296-302-06509	REP	04-14-028	296-400A-045	AMD	04-12-046
296-301-020	AMD-X	04-12-069	296-302-06511	REP-P	04-03-085	296-400A-120	AMD-P	04-08-089
296-301-020	AMD	04-14-028	296-302-06511	REP	04-14-028	296-400A-120	AMD	04-12-046
296-301-170	AMD-P	04-03-085	296-302-06513	REP-P	04-03-085	296-400A-121	AMD-P	04-08-089
296-301-170	AMD	04-14-028	296-302-06513	REP	04-14-028	296-400A-121	AMD	04-12-046
296-302-010	REP-P	04-03-085	296-302-06515	REP-P	04-03-085	296-400A-122	AMD-P	04-08-089
296-302-010	REP	04-14-028	296-302-06515	REP	04-14-028	296-400A-122	AMD	04-12-046
296-302-015	REP-P	04-03-085	296-302-06517	REP-P	04-03-085	296-400A-130	AMD-P	04-08-089
296-302-015	REP	04-14-028	296-302-06517	REP	04-14-028	296-400A-130	AMD	04-12-046
296-302-020	REP-P	04-03-085	296-302-06519	REP-P	04-03-085	296-400A-135	NEW-P	04-08-089
296-302-020	REP	04-14-028	296-302-06519	REP	04-14-028	296-400A-135	NEW	04-12-046
296-302-025	REP-P	04-03-085	296-302-06521	REP-P	04-03-085	296-400A-140	AMD-P	04-08-089
296-302-025	REP	04-14-028	296-302-06521	REP	04-14-028	296-400A-140	AMD	04-12-046
296-302-02501	REP-P	04-03-085	296-302-06523	REP-P	04-03-085	296-400A-150	NEW-P	04-08-089
296-302-02501	REP	04-14-028	296-302-06523	REP	04-14-028	296-400A-150	NEW	04-12-046
296-302-02503	REP-P	04-03-085	296-302-06525	REP-P	04-03-085	296-400A-155	NEW-P	04-08-089
296-302-02503	REP	04-14-028	296-302-06525	REP	04-14-028	296-400A-155	NEW	04-12-046
296-302-02505	REP-P	04-03-085	296-302-06527	REP-P	04-03-085	296-400A-300	AMD-P	04-08-089
296-302-02505	REP	04-14-028	296-302-06527	REP	04-14-028	296-400A-300	AMD	04-12-046
296-302-02507	REP-P	04-03-085	296-302-06529	REP-P	04-03-085	296-400A-400	AMD-P	04-08-089
296-302-02507	REP	04-14-028	296-302-06529	REP	04-14-028	296-400A-400	AMD	04-12-046
296-302-02509	REP-P	04-03-085	296-302-06531	REP-P	04-03-085	296-400A-425	AMD-P	04-08-089
296-302-02509	REP	04-14-028	296-302-06531	REP	04-14-028	296-400A-425	AMD	04-12-046
296-302-02511	REP-P	04-03-085	296-303-030	AMD-P	04-03-085	296-800	PREP	04-07-157
296-302-02511	REP	04-14-028	296-303-030	AMD	04-14-028	296-800-11045	PREP	04-06-078
296-302-02513	REP-P	04-03-085	296-305-01515	AMD	04-07-160	296-800-11045	AMD-X	04-12-069
296-302-02513	REP	04-14-028	296-305-02501	AMD	04-10-026	296-800-150	AMD	04-07-160
296-302-02515	REP-P	04-03-085	296-305-04501	PREP	04-08-090	296-800-15005	AMD	04-07-160
296-302-02515	REP	04-14-028	296-305-04501	PREP	04-11-062	296-800-15010	REP	04-07-160
296-302-02517	REP-P	04-03-085	296-305-06519	AMD-P	04-03-085	296-800-15015	REP	04-07-160
296-302-02517	REP	04-14-028	296-305-06519	AMD	04-14-028	296-800-15025	REP	04-07-160
296-302-02519	REP-P	04-03-085	296-307	PREP	04-09-097	296-800-17005	AMD	04-10-026
296-302-02519	REP	04-14-028	296-307-039	AMD	04-07-160	296-800-180	AMD	04-10-026
296-302-03001	REP-P	04-03-085	296-307-03905	AMD	04-07-160	296-800-310	AMD-W	04-11-058
296-302-03001	REP	04-14-028	296-307-03910	REP	04-07-160	296-800-31010	AMD-W	04-11-058
296-302-03003	REP-P	04-03-085	296-307-03915	REP	04-07-160	296-800-31020	AMD-W	04-11-058
296-302-03003	REP	04-14-028	296-307-03925	REP	04-07-160	296-800-31070	AMD-W	04-11-058
296-302-035	REP-P	04-03-085	296-307-14505	AMD-X	04-07-162	296-800-35052	PREP	04-06-078
296-302-035	REP	04-14-028	296-307-14505	AMD	04-13-129	296-800-35052	AMD-X	04-12-069
296-302-040	REP-P	04-03-085	296-307-14510	AMD-X	04-07-162	296-800-370	AMD-W	04-11-058
296-302-040	REP	04-14-028	296-307-14510	AMD	04-13-129	296-802-100	NEW	04-10-026
296-302-045	REP-P	04-03-085	296-400A-005	AMD-P	04-08-089	296-802-200	NEW	04-10-026
296-302-045	REP	04-14-028	296-400A-005	AMD	04-12-046	296-802-20005	NEW	04-10-026
296-302-050	REP-P	04-03-085	296-400A-020	AMD-P	04-08-089	296-802-20010	NEW	04-10-026
296-302-050	REP	04-14-028	296-400A-020	AMD	04-12-046	296-802-20015	NEW	04-10-026
296-302-05501	REP-P	04-03-085	296-400A-021	AMD-P	04-08-089	296-802-300	NEW	04-10-026
296-302-05501	REP	04-14-028	296-400A-021	AMD	04-12-046	296-802-30005	NEW	04-10-026
296-302-05503	REP-P	04-03-085	296-400A-023	NEW-P	04-08-089	296-802-400	NEW	04-10-026
296-302-05503	REP	04-14-028	296-400A-023	NEW	04-12-046	296-802-40005	NEW	04-10-026
296-302-060	REP-P	04-03-085	296-400A-026	AMD-P	04-08-089	296-802-40010	NEW	04-10-026
296-302-060	REP	04-14-028	296-400A-026	AMD	04-12-046	296-802-40015	NEW	04-10-026
296-302-065	REP-P	04-03-085	296-400A-028	NEW-P	04-08-089	296-802-500	NEW	04-10-026
296-302-065	REP	04-14-028	296-400A-028	NEW	04-12-046	296-802-50005	NEW	04-10-026

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296-806-48058	NEW	04-14-028	296-809-60002	NEW	04-03-081	296-823-18015	AMD-X	04-07-158
296-806-48060	NEW-P	04-03-085	296-809-60004	NEW	04-03-081	296-823-18015	AMD	04-12-070
296-806-48060	NEW	04-14-028	296-809-700	NEW	04-03-081	296-823-18045	AMD-X	04-07-158
296-806-48062	NEW-P	04-03-085	296-809-70002	NEW	04-03-081	296-823-18045	AMD	04-12-070
296-806-48062	NEW	04-14-028	296-809-70004	NEW	04-03-081	296-823-18050	AMD-X	04-07-158
296-806-48064	NEW-P	04-03-085	296-809-800	NEW	04-03-081	296-823-18050	AMD	04-12-070
296-806-48064	NEW	04-14-028	296-816-100	NEW-P	04-07-159	296-823-18055	AMD-X	04-07-158
296-806-48066	NEW-P	04-03-085	296-816-100	NEW	04-14-026	296-823-18055	AMD	04-12-070
296-806-48066	NEW	04-14-028	296-816-200	NEW-P	04-07-159	296-823-200	AMD-X	04-07-158
296-806-48068	NEW-P	04-03-085	296-816-200	NEW	04-14-026	296-823-200	AMD	04-12-070
296-806-48068	NEW	04-14-028	296-816-20005	NEW-P	04-07-159	296-829-100	NEW	04-09-099
296-806-48070	NEW-P	04-03-085	296-816-20005	NEW	04-14-026	296-829-200	NEW	04-09-099
296-806-48070	NEW	04-14-028	296-816-20010	NEW-P	04-07-159	296-829-20005	NEW	04-09-099
296-806-48072	NEW-P	04-03-085	296-816-20010	NEW	04-14-026	296-829-20010	NEW	04-09-099
296-806-48072	NEW	04-14-028	296-816-20015	NEW-P	04-07-159	296-829-300	NEW	04-09-099
296-806-48074	NEW-P	04-03-085	296-816-20015	NEW	04-14-026	296-829-30005	NEW	04-09-099
296-806-48074	NEW	04-14-028	296-816-20020	NEW-P	04-07-159	296-829-30010	NEW	04-09-099
296-806-48076	NEW-P	04-03-085	296-816-20020	NEW	04-14-026	296-829-400	NEW	04-09-099
296-806-48076	NEW	04-14-028	296-816-300	NEW-P	04-07-159	296-829-40005	NEW	04-09-099
296-806-48078	NEW-P	04-03-085	296-816-300	NEW	04-14-026	296-829-40010	NEW	04-09-099
296-806-48078	NEW	04-14-028	296-823-100	AMD-X	04-07-158	296-829-40015	NEW	04-09-099
296-806-48080	NEW-P	04-03-085	296-823-100	AMD	04-12-070	296-829-40020	NEW	04-09-099
296-806-48080	NEW	04-14-028	296-823-11010	AMD-X	04-07-158	296-829-500	NEW	04-09-099
296-806-48082	NEW-P	04-03-085	296-823-11010	AMD	04-12-070	296-841	PREP	04-07-155
296-806-48082	NEW	04-14-028	296-823-12010	AMD-X	04-07-158	296-841	PREP	04-07-156
296-806-48084	NEW-P	04-03-085	296-823-12010	AMD	04-12-070	296-841-100	AMD-X	04-11-064
296-806-48084	NEW	04-14-028	296-823-13005	AMD-X	04-07-158	296-841-20005	AMD-X	04-11-064
296-806-48086	NEW-P	04-03-085	296-823-13005	AMD	04-12-070	296-841-20010	AMD-X	04-11-064
296-806-48086	NEW	04-14-028	296-823-14005	AMD-X	04-07-158	296-841-20020	AMD-X	04-11-064
296-806-48088	NEW-P	04-03-085	296-823-14005	AMD	04-12-070	296-841-20025	NEW-X	04-11-064
296-806-48088	NEW	04-14-028	296-823-14015	AMD-X	04-07-158	296-841-300	AMD-X	04-11-064
296-806-485	NEW-P	04-03-085	296-823-14015	AMD	04-12-070	296-843-100	NEW	04-02-053
296-806-485	NEW	04-14-028	296-823-14025	AMD-X	04-07-158	296-843-110	NEW	04-02-053
296-806-48502	NEW-P	04-03-085	296-823-14025	AMD	04-12-070	296-843-11005	NEW	04-02-053
296-806-48502	NEW	04-14-028	296-823-14050	AMD-X	04-07-158	296-843-11010	NEW	04-02-053
296-806-500	NEW-P	04-03-085	296-823-14050	AMD	04-12-070	296-843-120	NEW	04-02-053
296-806-500	NEW	04-14-028	296-823-14060	AMD-X	04-07-158	296-843-12005	NEW	04-02-053
296-809-100	NEW	04-03-081	296-823-14060	AMD	04-12-070	296-843-130	NEW	04-02-053
296-809-200	NEW	04-03-081	296-823-14065	AMD-X	04-07-158	296-843-13005	NEW	04-02-053
296-809-20002	NEW	04-03-081	296-823-14065	AMD	04-12-070	296-843-13010	NEW	04-02-053
296-809-20004	NEW	04-03-081	296-823-15010	AMD-X	04-07-158	296-843-140	NEW	04-02-053
296-809-20006	NEW	04-03-081	296-823-15010	AMD	04-12-070	296-843-14005	NEW	04-02-053
296-809-300	NEW	04-03-081	296-823-15015	AMD-X	04-07-158	296-843-150	NEW	04-02-053
296-809-30002	NEW	04-03-081	296-823-15015	AMD	04-12-070	296-843-15005	NEW	04-02-053
296-809-30004	NEW	04-03-081	296-823-15020	AMD-X	04-07-158	296-843-15010	NEW	04-02-053
296-809-400	NEW	04-03-081	296-823-15020	AMD	04-12-070	296-843-15015	NEW	04-02-053
296-809-40002	NEW	04-03-081	296-823-160	AMD-X	04-07-158	296-843-160	NEW	04-02-053
296-809-40004	NEW	04-03-081	296-823-160	AMD	04-12-070	296-843-16005	NEW	04-02-053
296-809-500	NEW	04-03-081	296-823-16005	AMD-X	04-07-158	296-843-170	NEW	04-02-053
296-809-50002	NEW	04-03-081	296-823-16005	AMD	04-12-070	296-843-17005	NEW	04-02-053
296-809-50004	NEW	04-03-081	296-823-16010	AMD-X	04-07-158	296-843-180	NEW	04-02-053
296-809-50006	NEW	04-03-081	296-823-16010	AMD	04-12-070	296-843-18005	NEW	04-02-053
296-809-50008	NEW	04-03-081	296-823-16015	AMD-X	04-07-158	296-843-18010	NEW	04-02-053
296-809-50010	NEW	04-03-081	296-823-16015	AMD	04-12-070	296-843-18015	NEW	04-02-053
296-809-50012	NEW	04-03-081	296-823-16025	AMD-X	04-07-158	296-843-18020	NEW	04-02-053
296-809-50014	NEW	04-03-081	296-823-16025	AMD	04-12-070	296-843-190	NEW	04-02-053
296-809-50016	NEW	04-03-081	296-823-16030	AMD-X	04-07-158	296-843-19005	NEW	04-02-053
296-809-50018	NEW	04-03-081	296-823-16030	AMD	04-12-070	296-843-200	NEW	04-02-053
296-809-50020	NEW	04-03-081	296-823-17010	AMD-X	04-07-158	296-843-20005	NEW	04-02-053
296-809-50022	NEW	04-03-081	296-823-17010	AMD	04-12-070	296-843-20010	NEW	04-02-053
296-809-50024	NEW	04-03-081	296-823-180	AMD-X	04-07-158	296-843-20015	NEW	04-02-053
296-809-600	NEW	04-03-081	296-823-180	AMD	04-12-070	296-843-20020	NEW	04-02-053

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-843-20025	NEW	04-02-053	296-864-40020	NEW-P	04-12-071	296-874-30024	NEW-P	04-14-027
296-843-20030	NEW	04-02-053	296-864-500	NEW-P	04-12-071	296-874-30026	NEW-P	04-14-027
296-843-20035	NEW	04-02-053	296-864-50005	NEW-P	04-12-071	296-874-30028	NEW-P	04-14-027
296-843-210	NEW	04-02-053	296-864-50010	NEW-P	04-12-071	296-874-30030	NEW-P	04-14-027
296-843-21005	NEW	04-02-053	296-864-50015	NEW-P	04-12-071	296-874-30032	NEW-P	04-14-027
296-843-220	NEW	04-02-053	296-864-50020	NEW-P	04-12-071	296-874-30034	NEW-P	04-14-027
296-843-22005	NEW	04-02-053	296-864-600	NEW-P	04-12-071	296-874-30036	NEW-P	04-14-027
296-843-22010	NEW	04-02-053	296-864-60005	NEW-P	04-12-071	296-874-30038	NEW-P	04-14-027
296-843-300	NEW	04-02-053	296-864-60010	NEW-P	04-12-071	296-874-30040	NEW-P	04-14-027
296-863-10005	NEW-P	04-08-039	296-864-700	NEW-P	04-12-071	296-874-30042	NEW-P	04-14-027
296-863-200	NEW-P	04-08-039	296-874-100	NEW-P	04-14-027	296-874-30044	NEW-P	04-14-027
296-863-20005	NEW-P	04-08-039	296-874-200	NEW-P	04-14-027	296-874-30046	NEW-P	04-14-027
296-863-20010	NEW-P	04-08-039	296-874-20002	NEW-P	04-14-027	296-874-400	NEW-P	04-14-027
296-863-20015	NEW-P	04-08-039	296-874-20004	NEW-P	04-14-027	296-874-40002	NEW-P	04-14-027
296-863-20020	NEW-P	04-08-039	296-874-20006	NEW-P	04-14-027	296-874-40004	NEW-P	04-14-027
296-863-20025	NEW-P	04-08-039	296-874-20008	NEW-P	04-14-027	296-874-40006	NEW-P	04-14-027
296-863-20030	NEW-P	04-08-039	296-874-20010	NEW-P	04-14-027	296-874-40008	NEW-P	04-14-027
296-863-20035	NEW-P	04-08-039	296-874-20012	NEW-P	04-14-027	296-874-40010	NEW-P	04-14-027
296-863-20040	NEW-P	04-08-039	296-874-20014	NEW-P	04-14-027	296-874-40012	NEW-P	04-14-027
296-863-300	NEW-P	04-08-039	296-874-20016	NEW-P	04-14-027	296-874-40014	NEW-P	04-14-027
296-863-30005	NEW-P	04-08-039	296-874-20018	NEW-P	04-14-027	296-874-40016	NEW-P	04-14-027
296-863-30010	NEW-P	04-08-039	296-874-20020	NEW-P	04-14-027	296-874-40018	NEW-P	04-14-027
296-863-30015	NEW-P	04-08-039	296-874-20022	NEW-P	04-14-027	296-874-40020	NEW-P	04-14-027
296-863-30020	NEW-P	04-08-039	296-874-20024	NEW-P	04-14-027	296-874-40022	NEW-P	04-14-027
296-863-30025	NEW-P	04-08-039	296-874-20026	NEW-P	04-14-027	296-874-40024	NEW-P	04-14-027
296-863-30030	NEW-P	04-08-039	296-874-20028	NEW-P	04-14-027	296-874-40026	NEW-P	04-14-027
296-863-30035	NEW-P	04-08-039	296-874-20030	NEW-P	04-14-027	296-874-40028	NEW-P	04-14-027
296-863-30040	NEW-P	04-08-039	296-874-20032	NEW-P	04-14-027	296-874-40030	NEW-P	04-14-027
296-863-400	NEW-P	04-08-039	296-874-20034	NEW-P	04-14-027	296-874-40032	NEW-P	04-14-027
296-863-40005	NEW-P	04-08-039	296-874-20036	NEW-P	04-14-027	296-874-40034	NEW-P	04-14-027
296-863-40010	NEW-P	04-08-039	296-874-20038	NEW-P	04-14-027	296-874-40036	NEW-P	04-14-027
296-863-40015	NEW-P	04-08-039	296-874-20040	NEW-P	04-14-027	296-874-40038	NEW-P	04-14-027
296-863-40020	NEW-P	04-08-039	296-874-20042	NEW-P	04-14-027	296-874-40040	NEW-P	04-14-027
296-863-40025	NEW-P	04-08-039	296-874-20044	NEW-P	04-14-027	296-874-40042	NEW-P	04-14-027
296-863-40030	NEW-P	04-08-039	296-874-20046	NEW-P	04-14-027	296-874-500	NEW-P	04-14-027
296-863-40035	NEW-P	04-08-039	296-874-20048	NEW-P	04-14-027	308- 11-030	AMD-P	04-14-075
296-863-40040	NEW-P	04-08-039	296-874-20050	NEW-P	04-14-027	308- 13-150	PREP	04-06-030
296-863-40045	NEW-P	04-08-039	296-874-20052	NEW-P	04-14-027	308- 13-150	AMD-P	04-13-143
296-863-40050	NEW-P	04-08-039	296-874-20054	NEW-P	04-14-027	308- 14-010	NEW-P	04-14-073
296-863-40055	NEW-P	04-08-039	296-874-20056	NEW-P	04-14-027	308- 14-085	AMD-P	04-14-073
296-863-40060	NEW-P	04-08-039	296-874-20058	NEW-P	04-14-027	308- 14-090	AMD-P	04-14-073
296-863-40065	NEW-P	04-08-039	296-874-20060	NEW-P	04-14-027	308- 14-115	NEW-P	04-14-073
296-863-500	NEW-P	04-08-039	296-874-20062	NEW-P	04-14-027	308- 14-130	AMD-P	04-14-073
296-863-50005	NEW-P	04-08-039	296-874-20064	NEW-P	04-14-027	308- 14-135	AMD-P	04-14-073
296-863-600	NEW-P	04-08-039	296-874-20066	NEW-P	04-14-027	308- 14-190	NEW-P	04-14-073
296-863-60005	NEW-P	04-08-039	296-874-20068	NEW-P	04-14-027	308- 14-200	AMD-P	04-14-074
296-863-60010	NEW-P	04-08-039	296-874-20070	NEW-P	04-14-027	308- 15	PREP	04-04-050
296-863-60015	NEW-P	04-08-039	296-874-20072	NEW-P	04-14-027	308- 17-150	AMD-P	04-07-032
296-863-700	NEW-P	04-08-039	296-874-20074	NEW-P	04-14-027	308- 17-150	AMD	04-12-024
296-864-100	NEW-P	04-12-071	296-874-20076	NEW-P	04-14-027	308- 18-150	AMD-P	04-07-031
296-864-200	NEW-P	04-12-071	296-874-300	NEW-P	04-14-027	308- 18-150	AMD	04-12-023
296-864-20005	NEW-P	04-12-071	296-874-30002	NEW-P	04-14-027	308- 20-010	AMD	04-05-005
296-864-20010	NEW-P	04-12-071	296-874-30004	NEW-P	04-14-027	308- 20-040	AMD	04-05-005
296-864-20015	NEW-P	04-12-071	296-874-30006	NEW-P	04-14-027	308- 20-055	NEW	04-05-005
296-864-300	NEW-P	04-12-071	296-874-30008	NEW-P	04-14-027	308- 20-090	AMD	04-05-005
296-864-30005	NEW-P	04-12-071	296-874-30010	NEW-P	04-14-027	308- 20-101	NEW	04-05-005
296-864-30010	NEW-P	04-12-071	296-874-30012	NEW-P	04-14-027	308- 20-110	AMD	04-05-005
296-864-30015	NEW-P	04-12-071	296-874-30014	NEW-P	04-14-027	308- 20-550	AMD	04-05-005
296-864-400	NEW-P	04-12-071	296-874-30016	NEW-P	04-14-027	308- 20-555	NEW	04-05-005
296-864-40005	NEW-P	04-12-071	296-874-30018	NEW-P	04-14-027	308- 29-045	AMD-P	04-14-070
296-864-40010	NEW-P	04-12-071	296-874-30020	NEW-P	04-14-027	308- 56A	PREP	04-05-121
296-864-40015	NEW-P	04-12-071	296-874-30022	NEW-P	04-14-027	308- 56A-020	AMD-P	04-04-006

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308-56A-020	AMD	04-08-080	308-93-030	PREP	04-07-054	308-124D-030	AMD-P	04-03-038
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308-56A-030	AMD-P	04-03-120	308-96A	PREP	04-03-002	308-125-200	AMD	04-04-052
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357-04-055	NEW-P	04-12-088	357-16-060	NEW-P	04-13-183	357-19-195	NEW-P	04-13-031
357-04-060	NEW-P	04-13-180	357-16-065	NEW-P	04-13-183	357-19-200	NEW-P	04-13-031
357-04-065	NEW-P	04-12-086	357-16-070	NEW-P	04-13-183	357-19-205	NEW-P	04-13-031
357-04-070	NEW-P	04-13-180	357-16-075	NEW-P	04-13-183	357-19-215	NEW-P	04-13-031
357-04-075	NEW-P	04-13-180	357-16-085	NEW-P	04-13-183	357-19-220	NEW-P	04-13-031
357-04-080	NEW-P	04-13-180	357-16-090	NEW-P	04-13-183	357-19-225	NEW-P	04-13-031
357-04-085	NEW-P	04-13-180	357-16-095	NEW-P	04-13-183	357-19-230	NEW-P	04-13-031
357-04-090	NEW-P	04-13-180	357-16-100	NEW-P	04-13-183	357-19-235	NEW-P	04-13-031
357-04-095	NEW-P	04-13-180	357-16-105	NEW-P	04-13-183	357-19-240	NEW-P	04-13-031
357-04-100	NEW-P	04-13-180	357-16-110	NEW-P	04-13-183	357-19-245	NEW-P	04-13-031
357-04-105	NEW-P	04-13-180	357-16-115	NEW-P	04-13-183	357-19-250	NEW-P	04-13-031
357-04-110	NEW-P	04-13-180	357-16-120	NEW-P	04-13-183	357-19-255	NEW-P	04-13-031
357-04-115	NEW-P	04-13-180	357-16-125	NEW-P	04-13-183	357-19-260	NEW-P	04-13-031
357-04-120	NEW-P	04-13-180	357-16-130	NEW-P	04-13-183	357-19-265	NEW-P	04-13-031
357-07-005	NEW-P	04-13-181	357-16-135	NEW-P	04-13-183	357-19-270	NEW-P	04-13-031
357-07-010	NEW-P	04-13-181	357-16-140	NEW-P	04-13-183	357-19-280	NEW-P	04-13-031
357-07-015	NEW-P	04-13-181	357-16-150	NEW-P	04-13-183	357-19-285	NEW-P	04-13-031
357-07-020	NEW-P	04-13-181	357-16-155	NEW-P	04-13-183	357-19-290	NEW-P	04-13-031
357-07-025	NEW-P	04-13-181	357-16-160	NEW-P	04-13-183	357-19-295	NEW-P	04-13-031

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
357-19-297	NEW-P	04-13-031	357-28-025	NEW-P	04-13-029	357-34-050	NEW-P	04-13-188
357-19-305	NEW-P	04-13-031	357-28-030	NEW-P	04-13-029	357-34-055	NEW-P	04-12-087
357-19-310	NEW-P	04-13-031	357-28-035	NEW-P	04-13-029	357-34-060	NEW-P	04-13-188
357-19-315	NEW-P	04-13-031	357-28-040	NEW-P	04-13-029	357-34-065	NEW-P	04-13-188
357-19-320	NEW-P	04-13-031	357-28-045	NEW-P	04-13-029	357-34-070	NEW-P	04-12-087
357-19-325	NEW-P	04-13-031	357-28-050	NEW-P	04-13-029	357-34-075	NEW-P	04-12-087
357-19-330	NEW-P	04-13-031	357-28-055	NEW-P	04-13-029	357-34-080	NEW-P	04-12-087
357-19-340	NEW-P	04-13-031	357-28-060	NEW-P	04-13-029	357-34-085	NEW-P	04-12-087
357-19-345	NEW-P	04-13-031	357-28-065	NEW-P	04-13-029	357-34-090	NEW-P	04-13-188
357-19-360	NEW-P	04-13-031	357-28-070	NEW-P	04-13-029	357-37-010	NEW-P	04-13-189
357-19-365	NEW-P	04-13-031	357-28-075	NEW-P	04-13-029	357-37-015	NEW-P	04-13-189
357-19-370	NEW-P	04-13-031	357-28-080	NEW-P	04-13-029	357-37-020	NEW-P	04-13-189
357-19-373	NEW-P	04-13-031	357-28-090	NEW-P	04-13-029	357-37-025	NEW-P	04-13-189
357-19-375	NEW-P	04-13-031	357-28-095	NEW-P	04-13-029	357-37-030	NEW-P	04-13-189
357-19-377	NEW-P	04-13-031	357-28-100	NEW-P	04-13-029	357-37-035	NEW-P	04-13-189
357-19-380	NEW-P	04-13-031	357-28-110	NEW-P	04-13-029	357-37-040	NEW-P	04-13-189
357-19-385	NEW-P	04-13-031	357-28-115	NEW-P	04-13-029	357-37-045	NEW-P	04-13-189
357-19-388	NEW-P	04-13-031	357-28-120	NEW-P	04-13-029	357-37-050	NEW-P	04-13-189
357-19-395	NEW-P	04-13-031	357-28-125	NEW-P	04-13-029	357-37-055	NEW-P	04-13-189
357-19-400	NEW-P	04-13-031	357-28-130	NEW-P	04-13-029	357-37-060	NEW-P	04-13-189
357-19-410	NEW-P	04-13-031	357-28-135	NEW-P	04-13-029	357-37-065	NEW-P	04-13-189
357-19-420	NEW-P	04-13-031	357-28-140	NEW-P	04-13-029	357-37-070	NEW-P	04-13-189
357-19-425	NEW-P	04-13-031	357-28-145	NEW-P	04-13-029	357-37-075	NEW-P	04-13-189
357-19-430	NEW-P	04-13-031	357-28-150	NEW-P	04-13-029	357-37-080	NEW-P	04-13-189
357-19-455	NEW-P	04-13-031	357-28-155	NEW-P	04-13-029	357-40-010	NEW-P	04-13-190
357-19-460	NEW-P	04-13-031	357-28-160	NEW-P	04-13-029	357-40-015	NEW-P	04-13-190
357-19-465	NEW-P	04-13-031	357-28-165	NEW-P	04-13-029	357-40-020	NEW-P	04-13-190
357-19-470	NEW-P	04-13-031	357-28-175	NEW-P	04-13-029	357-40-025	NEW-P	04-13-190
357-19-475	NEW-P	04-13-031	357-28-180	NEW-P	04-13-029	357-40-030	NEW-P	04-13-190
357-19-480	NEW-P	04-13-031	357-28-185	NEW-P	04-13-029	357-40-035	NEW-P	04-13-190
357-19-505	NEW-P	04-13-031	357-28-190	NEW-P	04-13-029	357-40-040	NEW-P	04-13-190
357-19-510	NEW-P	04-13-031	357-28-195	NEW-P	04-13-029	357-40-045	NEW-P	04-13-190
357-19-515	NEW-P	04-13-031	357-28-200	NEW-P	04-13-029	357-40-050	NEW-P	04-13-190
357-19-525	NEW-P	04-13-031	357-28-205	NEW-P	04-13-029	357-40-055	NEW-P	04-13-190
357-19-530	NEW-P	04-13-031	357-28-210	NEW-P	04-13-029	357-40-060	NEW-P	04-13-190
357-19-535	NEW-P	04-13-031	357-28-220	NEW-P	04-13-029	357-40-065	NEW-P	04-13-190
357-22-010	NEW-P	04-13-185	357-28-225	NEW-P	04-13-029	357-43-001	NEW-P	04-13-191
357-22-015	NEW-P	04-13-185	357-28-230	NEW-P	04-13-029	357-43-005	NEW-P	04-13-191
357-22-020	NEW-P	04-13-185	357-28-235	NEW-P	04-13-029	357-43-010	NEW-P	04-13-191
357-22-025	NEW-P	04-13-185	357-28-240	NEW-P	04-13-029	357-43-015	NEW-P	04-13-191
357-22-030	NEW-P	04-13-185	357-28-245	NEW-P	04-13-029	357-43-020	NEW-P	04-13-191
357-22-035	NEW-P	04-13-185	357-28-250	NEW-P	04-13-029	357-43-025	NEW-P	04-13-191
357-22-040	NEW-P	04-13-185	357-28-252	NEW-P	04-13-029	357-43-030	NEW-P	04-13-191
357-22-045	NEW-P	04-13-185	357-28-255	NEW-P	04-13-029	357-43-035	NEW-P	04-13-191
357-25-005	NEW-P	04-13-186	357-28-260	NEW-P	04-13-029	357-43-040	NEW-P	04-13-191
357-25-010	NEW-P	04-13-186	357-28-265	NEW-P	04-13-029	357-43-045	NEW-P	04-13-191
357-25-015	NEW-P	04-13-186	357-28-275	NEW-P	04-13-029	357-43-050	NEW-P	04-13-191
357-25-020	NEW-P	04-13-186	357-28-280	NEW-P	04-13-029	357-43-055	NEW-P	04-13-191
357-25-030	NEW-P	04-13-186	357-28-285	NEW-P	04-13-029	357-43-060	NEW-P	04-13-191
357-25-035	NEW-P	04-13-186	357-28-295	NEW-P	04-13-029	357-43-065	NEW-P	04-13-191
357-25-040	NEW-P	04-13-186	357-28-300	NEW-P	04-13-029	357-43-070	NEW-P	04-13-191
357-25-045	NEW-P	04-13-186	357-28-310	NEW-P	04-13-029	357-43-075	NEW-P	04-13-191
357-25-050	NEW-P	04-13-186	357-28-315	NEW-P	04-13-029	357-43-080	NEW-P	04-13-191
357-25-055	NEW-P	04-13-186	357-28-325	NEW-P	04-13-029	357-43-085	NEW-P	04-13-191
357-26-005	NEW-P	04-13-187	357-34-005	NEW-P	04-13-188	357-43-090	NEW-P	04-13-191
357-26-010	NEW-P	04-13-187	357-34-010	NEW-P	04-13-188	357-43-095	NEW-P	04-13-191
357-26-015	NEW-P	04-13-187	357-34-015	NEW-P	04-13-188	357-43-100	NEW-P	04-13-191
357-26-020	NEW-P	04-13-187	357-34-020	NEW-P	04-13-188	357-43-105	NEW-P	04-13-191
357-26-025	NEW-P	04-13-187	357-34-025	NEW-P	04-13-188	357-43-110	NEW-P	04-13-191
357-28-010	NEW-P	04-13-029	357-34-030	NEW-P	04-13-188	357-43-115	NEW-P	04-13-191
357-28-015	NEW-P	04-13-029	357-34-035	NEW-P	04-13-188	357-46-005	NEW-P	04-13-030
357-28-020	NEW-P	04-13-029	357-34-045	NEW-P	04-13-188	357-46-010	NEW-P	04-13-030

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
357-46-015	NEW-P	04-13-030	365-230-060	NEW-P	04-05-062	388-14A-1020	AMD-E	04-14-054
357-46-020	NEW-P	04-13-030	365-230-060	NEW	04-10-037	388-14A-3140	PREP	04-09-036
357-46-025	NEW-P	04-13-030	365-230-070	NEW-P	04-05-062	388-14A-3370	PREP	04-09-036
357-46-030	NEW-P	04-13-030	365-230-070	NEW	04-10-037	388-14A-3600	PREP	04-09-036
357-46-035	NEW-P	04-13-030	365-230-080	NEW-P	04-05-062	388-14A-3810	PREP	04-06-053
357-46-040	NEW-P	04-13-030	365-230-080	NEW	04-10-037	388-14A-3810	PREP	04-09-036
357-46-045	NEW-P	04-13-030	365-230-090	NEW-P	04-05-062	388-14A-4040	AMD-E	04-07-057
357-46-050	NEW-P	04-13-030	365-230-090	NEW	04-10-037	388-14A-4040	AMD-P	04-13-139
357-46-060	NEW-P	04-13-030	365-230-100	NEW-P	04-05-062	388-14A-4040	AMD-E	04-14-054
357-46-070	NEW-P	04-13-030	365-230-100	NEW	04-10-037	388-14A-4100	PREP-W	04-07-022
357-46-075	NEW-P	04-13-030	365-230-110	NEW-P	04-05-062	388-14A-4100	AMD-E	04-07-057
357-46-080	NEW-P	04-13-030	365-230-110	NEW	04-10-037	388-14A-4100	PREP	04-07-062
357-46-085	NEW-P	04-13-030	365-230-120	NEW-P	04-05-062	388-14A-4100	AMD-P	04-13-139
357-46-090	NEW-P	04-13-030	365-230-120	NEW	04-10-037	388-14A-4100	AMD-E	04-14-054
357-46-095	NEW-P	04-13-030	365-230-130	NEW-P	04-05-062	388-14A-4110	PREP-W	04-07-022
357-46-100	NEW-P	04-13-030	365-230-130	NEW	04-10-037	388-14A-4110	AMD-E	04-07-057
357-46-105	NEW-P	04-13-030	365-230-132	NEW-P	04-05-062	388-14A-4110	PREP	04-07-062
357-46-110	NEW-P	04-13-030	365-230-132	NEW	04-10-037	388-14A-4110	AMD-P	04-13-139
357-46-115	NEW-P	04-13-030	365-230-134	NEW-P	04-05-062	388-14A-4110	AMD-E	04-14-054
357-46-120	NEW-P	04-13-030	365-230-134	NEW	04-10-037	388-14A-4120	PREP-W	04-07-022
357-46-125	NEW-P	04-13-030	365-230-140	NEW-P	04-05-062	388-14A-4120	AMD-E	04-07-057
357-46-130	NEW-P	04-13-030	365-230-140	NEW	04-10-037	388-14A-4120	PREP	04-07-062
357-46-135	NEW-P	04-13-030	365-230-150	NEW-P	04-05-062	388-14A-4120	AMD-P	04-13-139
357-46-140	NEW-P	04-13-030	365-230-150	NEW	04-10-037	388-14A-4120	AMD-E	04-14-054
357-46-145	NEW-P	04-13-030	365-230-160	NEW-P	04-05-062	388-14A-4121	NEW-E	04-07-057
357-46-150	NEW-P	04-13-030	365-230-160	NEW	04-10-037	388-14A-4121	NEW-P	04-13-139
357-46-155	NEW-P	04-13-030	365-230-170	NEW-P	04-05-062	388-14A-4121	NEW-E	04-14-054
357-46-160	NEW-P	04-13-030	365-230-170	NEW	04-10-037	388-14A-4122	NEW-E	04-07-057
357-46-165	NEW-P	04-13-030	365-230-180	NEW-P	04-05-062	388-14A-4122	NEW-P	04-13-139
357-46-170	NEW-P	04-13-030	365-230-180	NEW	04-10-037	388-14A-4122	NEW-E	04-14-054
357-46-175	NEW-P	04-13-030	365-230-190	NEW-P	04-05-062	388-14A-4123	NEW-E	04-07-057
357-46-180	NEW-P	04-13-030	365-230-190	NEW	04-10-037	388-14A-4123	NEW-P	04-13-139
357-46-185	NEW-P	04-13-030	365-230-200	NEW-P	04-05-062	388-14A-4123	NEW-E	04-14-054
357-46-190	NEW-P	04-13-030	365-230-200	NEW	04-10-037	388-14A-4124	NEW-E	04-07-057
357-46-195	NEW-P	04-13-030	365-230-210	NEW-P	04-05-062	388-14A-4124	NEW-P	04-13-139
357-46-200	NEW-P	04-13-030	365-230-210	NEW	04-10-037	388-14A-4124	NEW-E	04-14-054
357-46-205	NEW-P	04-13-030	365-230-220	NEW-P	04-05-062	388-14A-4125	NEW-E	04-07-057
357-49-010	NEW-P	04-13-192	365-230-220	NEW	04-10-037	388-14A-4125	NEW-P	04-13-139
357-49-015	NEW-P	04-13-192	365-230-230	NEW-P	04-05-062	388-14A-4125	NEW-E	04-14-054
357-49-020	NEW-P	04-13-192	365-230-230	NEW	04-10-037	388-14A-4126	NEW-E	04-07-057
363-116-070	AMD-P	04-10-030	365-230-240	NEW-P	04-05-062	388-14A-4126	NEW-P	04-13-139
363-116-070	AMD	04-14-017	365-230-240	NEW	04-10-037	388-14A-4126	NEW-E	04-14-054
363-116-185	AMD-P	04-10-031	365-230-250	NEW-P	04-05-062	388-14A-4130	PREP-W	04-07-022
363-116-185	AMD	04-14-018	365-230-250	NEW	04-10-037	388-14A-4130	AMD-E	04-07-057
363-116-300	AMD-P	04-08-008	365-230-260	NEW-P	04-05-062	388-14A-4130	PREP	04-07-062
363-116-300	AMD	04-12-014	365-230-260	NEW	04-10-037	388-14A-4130	AMD-P	04-13-139
365-230-010	NEW-P	04-05-062	365-230-270	NEW-P	04-05-062	388-14A-4130	AMD-E	04-14-054
365-230-010	NEW	04-10-037	365-230-270	NEW	04-10-037	388-14A-4135	NEW-E	04-07-057
365-230-015	NEW-P	04-05-062	371-08-306	NEW	04-03-001	388-14A-4135	NEW-P	04-13-139
365-230-015	NEW	04-10-037	371-08-315	AMD	04-03-001	388-14A-4135	NEW-E	04-14-054
365-230-016	NEW-P	04-05-062	388-02-0215	AMD-E	04-07-090	388-14A-4140	NEW-E	04-07-057
365-230-016	NEW	04-10-037	388-11-032	PREP-W	04-07-112	388-14A-4140	NEW-P	04-13-139
365-230-020	NEW-P	04-05-062	388-11-045	PREP-W	04-07-112	388-14A-4140	NEW-E	04-14-054
365-230-020	NEW	04-10-037	388-11-048	PREP-W	04-07-112	388-14A-4143	NEW-E	04-07-057
365-230-030	NEW-P	04-05-062	388-11-205	PREP-W	04-07-112	388-14A-4143	NEW-P	04-13-139
365-230-030	NEW	04-10-037	388-14-045	PREP-W	04-07-112	388-14A-4143	NEW-E	04-14-054
365-230-035	NEW-P	04-05-062	388-14-450	PREP-W	04-07-112	388-14A-4145	NEW-E	04-07-057
365-230-035	NEW	04-10-037	388-14A	PREP	04-07-113	388-14A-4145	NEW-P	04-13-139
365-230-040	NEW-P	04-05-062	388-14A-1020	PREP	04-06-053	388-14A-4145	NEW-E	04-14-054
365-230-040	NEW	04-10-037	388-14A-1020	AMD-E	04-07-057	388-14A-4150	NEW-E	04-07-057
365-230-050	NEW-P	04-05-062	388-14A-1020	PREP	04-09-036	388-14A-4150	NEW-P	04-13-139
365-230-050	NEW	04-10-037	388-14A-1020	AMD-P	04-13-139	388-14A-4150	NEW-E	04-14-054

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388- 14A-4160	NEW-E	04-07-057	388- 27-0270	REP	04-06-024	388- 71-0708	AMD-E	04-10-062
388- 14A-4160	NEW-P	04-13-139	388- 71-0100	AMD-P	04-13-138	388- 71-0708	AMD-P	04-10-101
388- 14A-4160	NEW-E	04-14-054	388- 71-0105	AMD-E	04-06-039	388- 71-0900	PREP	04-07-061
388- 14A-4165	NEW-E	04-07-057	388- 71-0105	AMD-P	04-13-138	388- 71-0905	PREP	04-07-061
388- 14A-4165	NEW-P	04-13-139	388- 71-0105	AMD-E	04-14-013	388- 71-0910	PREP	04-07-061
388- 14A-4165	NEW-E	04-14-054	388- 71-0110	AMD-P	04-13-138	388- 71-0915	PREP	04-07-061
388- 14A-4170	NEW-E	04-07-057	388- 71-0115	AMD-P	04-13-138	388- 71-0915	AMD-E	04-10-062
388- 14A-4170	NEW-P	04-13-139	388- 71-0116	NEW-E	04-06-039	388- 71-0915	AMD-P	04-10-101
388- 14A-4170	NEW-E	04-14-054	388- 71-0116	NEW-E	04-14-013	388- 71-0920	PREP	04-07-061
388- 14A-4175	NEW-E	04-07-057	388- 71-0120	REP-P	04-13-138	388- 71-0925	PREP	04-07-061
388- 14A-4175	NEW-P	04-13-139	388- 71-01205	NEW-P	04-13-138	388- 71-0930	PREP	04-07-061
388- 14A-4175	NEW-E	04-14-054	388- 71-0121	NEW-P	04-13-138	388- 71-0935	PREP	04-07-061
388- 14A-5000	PREP	04-07-166	388- 71-01210	NEW-P	04-13-138	388- 71-0940	PREP	04-07-061
388- 14A-5001	PREP	04-08-069	388- 71-01215	NEW-P	04-13-138	388- 71-0945	PREP	04-07-061
388- 14A-6300	PREP	04-09-036	388- 71-01220	NEW-P	04-13-138	388- 71-0950	PREP	04-07-061
388- 25	PREP	04-07-059	388- 71-01225	NEW-P	04-13-138	388- 71-0955	PREP	04-07-061
388- 25-0225	PREP	04-08-068	388- 71-01230	NEW-P	04-13-138	388- 71-0960	PREP	04-07-061
388- 25-0226	PREP	04-08-068	388- 71-01235	NEW-P	04-13-138	388- 71-0960	AMD-E	04-10-062
388- 25-0230	PREP	04-08-068	388- 71-01240	NEW-P	04-13-138	388- 71-0960	AMD-P	04-10-101
388- 25-1000	NEW-E	04-07-091	388- 71-01245	NEW-P	04-13-138	388- 71-0965	PREP	04-07-061
388- 25-1010	NEW-E	04-07-091	388- 71-01250	NEW-P	04-13-138	388- 71-1105	AMD-E	04-10-062
388- 25-1020	NEW-E	04-07-091	388- 71-01255	NEW-P	04-13-138	388- 71-1105	AMD-P	04-10-101
388- 25-1030	NEW-E	04-07-091	388- 71-01260	NEW-P	04-13-138	388- 72A	PREP	04-09-089
388- 25-1040	NEW-E	04-07-091	388- 71-01265	NEW-P	04-13-138	388- 72A-0010	AMD-E	04-09-094
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388- 27-0130	AMD	04-06-024	388- 71-0155	REP-P	04-13-138	388- 72A-0010	AMD-P	04-14-099
388- 27-0135	AMD-E	04-03-018	388- 71-0194	AMD-E	04-10-062	388- 72A-0035	AMD-P	04-14-099
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388- 27-0155	AMD-E	04-03-018	388- 71-0202	AMD	04-04-042	388- 72A-0036	NEW-P	04-10-097
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388- 27-0175	AMD	04-06-024	388- 71-0415	AMD-E	04-10-062	388- 72A-0038	NEW-E	04-09-094
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388- 27-0195	AMD-E	04-03-018	388- 71-0420	AMD-P	04-10-101	388- 72A-0039	NEW-P	04-14-099
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388- 27-0210	AMD-E	04-03-018	388- 71-0440	AMD-P	04-10-101	388- 72A-0041	NEW-P	04-10-097
388- 27-0210	AMD	04-06-024	388- 71-0465	AMD-E	04-10-062	388- 72A-0041	NEW-W	04-11-082
388- 27-0215	AMD-E	04-03-018	388- 71-0465	AMD-P	04-10-101	388- 72A-0041	NEW-S	04-11-086
388- 27-0215	AMD	04-06-024	388- 71-0470	AMD-E	04-10-062	388- 72A-0041	NEW-W	04-14-096
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388- 27-0225	REP-E	04-03-018	388- 71-0480	AMD-P	04-10-101	388- 72A-0042	NEW-W	04-11-082
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388-140-0130	NEW-E	04-03-0100	388-140-0440	NEW-E	04-03-0100	388-148-0050	AMD	04-08-073
388-140-0135	NEW-E	04-03-0100	388-140-0445	NEW-E	04-03-0100	388-148-0055	AMD-P	04-03-116
388-140-0140	NEW-E	04-03-0100	388-140-0450	NEW-E	04-03-0100	388-148-0055	AMD	04-08-073
388-140-0145	NEW-E	04-03-0100	388-140-0455	NEW-E	04-03-0100	388-148-0058	NEW-P	04-03-116
388-140-0150	NEW-E	04-03-0100	388-140-0460	NEW-E	04-03-0100	388-148-0058	NEW-E	04-05-035
388-140-0155	NEW-E	04-03-0100	388-140-0465	NEW-E	04-03-0100	388-148-0058	NEW	04-08-073
388-140-0160	NEW-E	04-03-0100	388-140-0470	NEW-E	04-03-0100	388-148-0060	AMD-P	04-03-116
388-140-0165	NEW-E	04-03-0100	388-140-0475	NEW-E	04-03-0100	388-148-0060	AMD-E	04-05-035
388-140-0170	NEW-E	04-03-0100	388-140-0480	NEW-E	04-03-0100	388-148-0060	AMD	04-08-073
388-140-0175	NEW-E	04-03-0100	388-140-0485	NEW-E	04-03-0100	388-148-0065	AMD-P	04-03-116
388-140-0180	NEW-E	04-03-0100	388-140-0490	NEW-E	04-03-0100	388-148-0065	AMD-E	04-05-035
388-140-0185	NEW-E	04-03-0100	388-140-0495	NEW-E	04-03-0100	388-148-0065	AMD	04-08-073
388-140-0190	NEW-E	04-03-0100	388-140-0500	NEW-E	04-03-0100	388-148-0070	AMD-P	04-03-116
388-140-0195	NEW-E	04-03-0100	388-140-0505	NEW-E	04-03-0100	388-148-0070	AMD	04-08-073
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388-140-0205	NEW-E	04-03-0100	388-140-0515	NEW-E	04-03-0100	388-148-0075	AMD	04-08-073
388-140-0210	NEW-E	04-03-0100	388-140-0520	NEW-E	04-03-0100	388-148-0085	AMD-P	04-03-116
388-140-0215	NEW-E	04-03-0100	388-140-0525	NEW-E	04-03-0100	388-148-0085	AMD	04-08-073
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388-140-0230	NEW-E	04-03-0100	388-140-0540	NEW-E	04-03-0100	388-148-0095	AMD-P	04-03-116
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388-140-0250	NEW-E	04-03-0100	388-140-0560	NEW-E	04-03-0100	388-148-0098	NEW	04-08-073
388-140-0255	NEW-E	04-03-0100	388-140-0565	NEW-E	04-03-0100	388-148-0098	NEW	04-08-073
388-140-0260	NEW-E	04-03-0100	388-140-0570	NEW-E	04-03-0100	388-148-0100	AMD-P	04-03-116
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388-140-0275	NEW-E	04-03-0100	388-140-0585	NEW-E	04-03-0100	388-148-0110	AMD	04-08-073
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388-140-0300	NEW-E	04-03-0100	388-140-0610	NEW-E	04-03-0100	388-148-0125	AMD-E	04-05-035
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388-140-0325	NEW-E	04-03-0100	388-140-0635	NEW-E	04-03-0100	388-148-0130	AMD	04-08-073
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388-140-0355	NEW-E	04-03-0100	388-148-0010	AMD	04-08-073	388-148-0150	AMD-P	04-03-116
388-140-0360	NEW-E	04-03-0100	388-148-0015	AMD-P	04-03-116	388-148-0150	AMD	04-08-073
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388-148-0225	AMD-P	04-03-116	388-148-0395	AMD-E	04-05-035	388-148-0610	AMD	04-08-073
388-148-0225	AMD	04-08-073	388-148-0395	AMD	04-08-073	388-148-0615	REP-P	04-03-116
388-148-0230	AMD-P	04-03-116	388-148-0400	AMD-P	04-03-116	388-148-0615	REP	04-08-073
388-148-0230	AMD	04-08-073	388-148-0400	AMD	04-08-073	388-148-0620	AMD-P	04-03-116
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388-148-0235	AMD	04-08-073	388-148-0422	NEW	04-08-073	388-148-0625	AMD-P	04-03-116
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388-148-0355	AMD-P	04-03-116	388-148-0555	AMD-P	04-03-116	388-148-0730	AMD	04-08-073
388-148-0355	AMD	04-08-073	388-148-0555	AMD	04-08-073	388-148-0735	REP-P	04-03-116
388-148-0360	REP-P	04-03-116	388-148-0560	AMD-P	04-03-116	388-148-0735	REP	04-08-073
388-148-0360	REP	04-08-073	388-148-0560	AMD-E	04-05-035	388-148-0750	AMD-P	04-03-116
388-148-0365	AMD-P	04-03-116	388-148-0560	AMD	04-08-073	388-148-0750	AMD	04-08-073
388-148-0365	AMD	04-08-073	388-148-0585	AMD-P	04-03-116	388-148-0765	AMD-P	04-03-116
388-148-0375	AMD-P	04-03-116	388-148-0585	AMD-E	04-05-035	388-148-0765	AMD	04-08-073
388-148-0375	AMD	04-08-073	388-148-0585	AMD	04-08-073	388-148-0775	AMD-P	04-03-116
388-148-0380	AMD-P	04-03-116	388-148-0600	AMD-P	04-03-116	388-148-0775	AMD	04-08-073
388-148-0380	AMD	04-08-073	388-148-0600	AMD	04-08-073	388-148-0785	AMD-P	04-03-116
388-148-0385	AMD-P	04-03-116	388-148-0605	AMD-P	04-03-116	388-148-0785	AMD-E	04-05-035

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388-148-0795	AMD-P	04-03-116	388-148-1076	NEW-P	04-03-116	388-155-085	REP-P	04-07-134
388-148-0795	AMD	04-08-073	388-148-1076	NEW-E	04-05-035	388-155-090	REP-P	04-07-134
388-148-0800	AMD-P	04-03-116	388-148-1076	NEW	04-08-073	388-155-092	REP-P	04-07-134
388-148-0800	AMD	04-08-073	388-148-1077	NEW-P	04-03-116	388-155-093	REP-P	04-07-134
388-148-0805	AMD-P	04-03-116	388-148-1077	NEW-E	04-05-035	388-155-094	REP-P	04-07-134
388-148-0805	AMD	04-08-073	388-148-1077	NEW	04-08-073	388-155-095	REP-P	04-07-134
388-148-0810	AMD-P	04-03-116	388-148-1078	NEW-P	04-03-116	388-155-096	REP-P	04-07-134
388-148-0810	AMD	04-08-073	388-148-1078	NEW-E	04-05-035	388-155-097	REP-P	04-07-134
388-148-0830	AMD-P	04-03-116	388-148-1078	NEW	04-08-073	388-155-098	REP-P	04-07-134
388-148-0830	AMD	04-08-073	388-148-1079	NEW-P	04-03-116	388-155-100	REP-P	04-07-134
388-148-0860	AMD-P	04-03-116	388-148-1079	NEW-E	04-05-035	388-155-110	REP-P	04-07-134
388-148-0860	AMD	04-08-073	388-148-1079	NEW	04-08-073	388-155-120	REP-P	04-07-134
388-148-0870	AMD-P	04-03-116	388-148-1085	AMD-P	04-03-116	388-155-130	REP-P	04-07-134
388-148-0870	AMD	04-08-073	388-148-1085	AMD	04-08-073	388-155-140	REP-P	04-07-134
388-148-0875	AMD-P	04-03-116	388-148-1115	AMD-P	04-03-116	388-155-150	REP-P	04-07-134
388-148-0875	AMD	04-08-073	388-148-1115	AMD-E	04-05-035	388-155-160	REP-P	04-07-134
388-148-0880	AMD-P	04-03-116	388-148-1115	AMD	04-08-073	388-155-165	REP-P	04-07-134
388-148-0880	AMD-E	04-05-035	388-148-1120	AMD-P	04-03-116	388-155-170	REP-P	04-07-134
388-148-0880	AMD	04-08-073	388-148-1120	AMD-E	04-05-035	388-155-180	REP-P	04-07-134
388-148-0885	AMD-P	04-03-116	388-148-1120	AMD	04-08-073	388-155-190	REP-P	04-07-134
388-148-0885	AMD	04-08-073	388-148-1205	NEW-P	04-03-116	388-155-200	REP-P	04-07-134
388-148-0890	AMD-P	04-03-116	388-148-1205	NEW	04-08-073	388-155-220	REP-P	04-07-134
388-148-0890	AMD	04-08-073	388-148-1210	NEW-P	04-03-116	388-155-230	REP-P	04-07-134
388-148-0892	NEW-P	04-03-116	388-148-1210	NEW	04-08-073	388-155-240	REP-P	04-07-134
388-148-0892	NEW-E	04-05-035	388-148-1215	NEW-P	04-03-116	388-155-250	REP-P	04-07-134
388-148-0892	NEW	04-08-073	388-148-1215	NEW	04-08-073	388-155-270	REP-P	04-07-134
388-148-0895	AMD-P	04-03-116	388-148-1220	NEW-P	04-03-116	388-155-280	REP-P	04-07-134
388-148-0895	AMD	04-08-073	388-148-1220	NEW	04-08-073	388-155-290	REP-P	04-07-134
388-148-0900	AMD-P	04-03-116	388-148-1225	NEW-P	04-03-116	388-155-295	REP-P	04-07-134
388-148-0900	AMD	04-08-073	388-148-1225	NEW	04-08-073	388-155-310	REP-P	04-07-134
388-148-0905	AMD-P	04-03-116	388-148-1230	NEW-P	04-03-116	388-155-320	REP-P	04-07-134
388-148-0905	AMD	04-08-073	388-148-1230	NEW	04-08-073	388-155-330	REP-P	04-07-134
388-148-0915	AMD-P	04-03-116	388-148-1235	NEW-P	04-03-116	388-155-340	REP-P	04-07-134
388-148-0915	AMD-E	04-05-035	388-148-1235	NEW	04-08-073	388-155-350	REP-P	04-07-134
388-148-0915	AMD	04-08-073	388-148-1240	NEW-P	04-03-116	388-155-360	REP-P	04-07-134
388-148-0935	REP-P	04-03-116	388-148-1240	NEW	04-08-073	388-155-370	REP-P	04-07-134
388-148-0935	REP	04-08-073	388-148-1245	NEW-P	04-03-116	388-155-380	REP-P	04-07-134
388-148-0995	AMD-P	04-03-116	388-148-1245	NEW	04-08-073	388-155-390	REP-P	04-07-134
388-148-0995	AMD-E	04-05-035	388-148-1250	NEW-P	04-03-116	388-155-400	REP-P	04-07-134
388-148-0995	AMD	04-08-073	388-148-1250	NEW	04-08-073	388-155-410	REP-P	04-07-134
388-148-1020	REP-P	04-03-116	388-148-1255	NEW-P	04-03-116	388-155-420	REP-P	04-07-134
388-148-1020	REP	04-08-073	388-148-1255	NEW	04-08-073	388-155-430	REP-P	04-07-134
388-148-1025	AMD-P	04-03-116	388-148-1260	NEW-P	04-03-116	388-155-440	REP-P	04-07-134
388-148-1025	AMD	04-08-073	388-148-1260	NEW	04-08-073	388-155-450	REP-P	04-07-134
388-148-1030	AMD-P	04-03-116	388-148-1265	NEW-P	04-03-116	388-155-460	REP-P	04-07-134
388-148-1030	AMD	04-08-073	388-148-1265	NEW	04-08-073	388-155-470	REP-P	04-07-134
388-148-1035	AMD-P	04-03-116	388-148-1270	NEW-P	04-03-116	388-155-480	REP-P	04-07-134
388-148-1035	AMD	04-08-073	388-148-1270	NEW	04-08-073	388-155-490	REP-P	04-07-134
388-148-1045	AMD-P	04-03-116	388-148-1275	NEW-P	04-03-116	388-155-500	REP-P	04-07-134
388-148-1045	AMD	04-08-073	388-148-1275	NEW	04-08-073	388-155-600	REP-P	04-07-134
388-148-1050	AMD-P	04-03-116	388-148-1280	NEW-P	04-03-116	388-155-605	REP-P	04-07-134
388-148-1050	AMD	04-08-073	388-148-1280	NEW	04-08-073	388-155-610	REP-P	04-07-134
388-148-1060	AMD-P	04-03-116	388-155	REP-C	04-10-095	388-155-620	REP-P	04-07-134
388-148-1060	AMD-E	04-05-035	388-155-005	REP-P	04-07-134	388-155-630	REP-P	04-07-134
388-148-1060	AMD	04-08-073	388-155-010	REP-P	04-07-134	388-155-640	REP-P	04-07-134
388-148-1065	REP-P	04-03-116	388-155-020	REP-P	04-07-134	388-155-650	REP-P	04-07-134
388-148-1065	REP	04-08-073	388-155-040	REP-P	04-07-134	388-155-660	REP-P	04-07-134
388-148-1066	NEW-P	04-03-116	388-155-050	REP-P	04-07-134	388-155-670	REP-P	04-07-134
388-148-1066	NEW	04-08-073	388-155-060	REP-P	04-07-134	388-155-680	REP-P	04-07-134
388-148-1070	AMD-P	04-03-116	388-155-070	REP-P	04-07-134	388-155-991	REP-P	04-07-134
388-148-1070	AMD-E	04-05-035	388-155-080	REP-P	04-07-134	388-155-992	REP-P	04-07-134

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388-273-0025	AMD-P	04-07-089	388-290-0060	AMD-P	04-02-047	388-290-0135	AMD	04-08-021
388-273-0025	AMD-E	04-11-080	388-290-0060	AMD	04-08-021	388-290-0135	AMD	04-08-134
388-273-0025	AMD	04-13-136	388-290-0060	AMD	04-08-134	388-290-0140	AMD-P	04-02-047
388-273-0030	AMD-E	04-03-097	388-290-0060	PREP	04-13-046	388-290-0140	AMD	04-08-021
388-273-0030	AMD-P	04-07-089	388-290-0065	AMD-P	04-02-047	388-290-0140	AMD	04-08-134
388-273-0030	AMD-E	04-11-080	388-290-0065	AMD	04-08-021	388-290-0140	PREP	04-13-046
388-273-0030	AMD	04-13-136	388-290-0065	AMD	04-08-134	388-290-0143	AMD-P	04-02-047
388-273-0035	AMD-E	04-03-097	388-290-0070	AMD-P	04-02-047	388-290-0143	AMD	04-08-021
388-273-0035	AMD-P	04-07-089	388-290-0070	AMD	04-08-021	388-290-0143	AMD	04-08-134
388-273-0035	AMD-E	04-11-080	388-290-0070	AMD	04-08-134	388-290-0145	AMD-P	04-02-047
388-273-0035	AMD	04-13-136	388-290-0075	AMD-P	04-02-047	388-290-0145	AMD	04-08-021
388-290-0001	AMD-P	04-02-047	388-290-0075	AMD-E	04-05-079	388-290-0145	AMD	04-08-134
388-290-0001	AMD	04-08-021	388-290-0075	AMD	04-08-021	388-290-0150	AMD-P	04-02-047
388-290-0001	AMD	04-08-134	388-290-0075	AMD	04-08-134	388-290-0150	AMD	04-08-021
388-290-0005	AMD-P	04-02-047	388-290-0080	REP-P	04-02-047	388-290-0150	AMD	04-08-134
388-290-0005	AMD	04-08-021	388-290-0080	REP	04-08-021	388-290-0155	AMD-P	04-02-047
388-290-0005	AMD	04-08-134	388-290-0080	REP	04-08-134	388-290-0155	AMD	04-08-021
388-290-0010	AMD-P	04-02-047	388-290-0082	NEW-P	04-02-047	388-290-0155	AMD	04-08-134
388-290-0010	AMD	04-08-021	388-290-0082	NEW	04-08-021	388-290-0155	PREP	04-13-046
388-290-0010	AMD	04-08-134	388-290-0082	NEW	04-08-134	388-290-0160	AMD-P	04-02-047
388-290-0012	NEW-P	04-02-047	388-290-0085	AMD-P	04-02-047	388-290-0160	AMD	04-08-021
388-290-0012	NEW	04-08-021	388-290-0085	AMD-E	04-05-079	388-290-0160	AMD	04-08-134
388-290-0012	NEW	04-08-134	388-290-0085	AMD	04-08-021	388-290-0165	AMD-P	04-02-047
388-290-0015	AMD-P	04-02-047	388-290-0085	AMD	04-08-134	388-290-0165	AMD	04-08-021
388-290-0015	AMD	04-08-021	388-290-0085	PREP	04-13-046	388-290-0165	AMD	04-08-134
388-290-0015	AMD	04-08-134	388-290-0090	AMD-P	04-02-047	388-290-0165	PREP	04-13-046
388-290-0020	AMD-P	04-02-047	388-290-0090	AMD	04-08-021	388-290-0167	AMD-P	04-02-047
388-290-0020	AMD	04-08-021	388-290-0090	AMD	04-08-134	388-290-0167	AMD	04-08-021
388-290-0020	AMD	04-08-134	388-290-0090	PREP	04-13-046	388-290-0167	AMD	04-08-134
388-290-0020	PREP	04-13-046	388-290-0095	AMD-P	04-02-047	388-290-0180	AMD-P	04-02-047
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388-290-0025	AMD	04-08-021	388-290-0095	AMD	04-08-134	388-290-0180	AMD	04-08-134
388-290-0025	AMD	04-08-134	388-290-0100	AMD-P	04-02-047	388-290-0190	AMD-P	04-02-047
388-290-0025	PREP	04-13-046	388-290-0100	AMD	04-08-021	388-290-0190	AMD-E	04-05-079
388-290-0030	AMD-P	04-02-047	388-290-0100	AMD	04-08-134	388-290-0190	AMD	04-08-021
388-290-0030	AMD	04-08-021	388-290-0105	AMD-P	04-02-047	388-290-0190	AMD	04-08-134
388-290-0030	AMD	04-08-134	388-290-0105	AMD	04-08-021	388-290-0200	AMD-P	04-02-047
388-290-0030	PREP	04-13-046	388-290-0105	AMD	04-08-134	388-290-0200	AMD	04-08-021
388-290-0031	NEW-P	04-02-047	388-290-0105	PREP	04-13-046	388-290-0200	AMD	04-08-134
388-290-0031	NEW	04-08-021	388-290-0107	NEW-P	04-02-047	388-290-0200	AMD-E	04-14-014
388-290-0031	NEW	04-08-134	388-290-0107	NEW	04-08-021	388-290-0205	AMD-P	04-02-047
388-290-0032	NEW-P	04-02-047	388-290-0107	NEW	04-08-134	388-290-0205	AMD	04-08-021
388-290-0032	NEW	04-08-021	388-290-0107	NEW	04-08-134	388-290-0205	AMD	04-08-134
388-290-0032	NEW	04-08-134	388-290-0108	NEW-P	04-02-047	388-290-0205	AMD	04-08-021
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388-290-0032	PREP	04-13-046	388-290-0108	NEW	04-08-134	388-290-0210	REP-P	04-02-047
388-290-0035	AMD-P	04-02-047	388-290-0108	PREP	04-13-046	388-290-0210	REP-E	04-05-079
388-290-0035	AMD	04-08-021	388-290-0110	AMD-P	04-02-047	388-290-0210	REP	04-08-021
388-290-0035	AMD	04-08-134	388-290-0110	AMD	04-08-021	388-290-0210	REP	04-08-134
388-290-0040	AMD-P	04-02-047	388-290-0110	AMD	04-08-134	388-290-0220	AMD-P	04-02-047
388-290-0040	AMD	04-08-021	388-290-0110	PREP	04-13-046	388-290-0220	AMD	04-08-021
388-290-0040	AMD	04-08-134	388-290-0120	AMD-P	04-02-047	388-290-0220	AMD	04-08-134
388-290-0040	PREP	04-13-046	388-290-0120	AMD	04-08-021	388-290-0225	AMD-P	04-02-047
388-290-0045	AMD-P	04-02-047	388-290-0120	AMD	04-08-134	388-290-0225	AMD	04-08-021
388-290-0045	AMD	04-08-021	388-290-0125	AMD-P	04-02-047	388-290-0225	AMD	04-08-134
388-290-0045	AMD	04-08-134	388-290-0125	AMD	04-08-021	388-290-0230	AMD-P	04-02-047
388-290-0045	PREP	04-13-046	388-290-0125	AMD	04-08-134	388-290-0230	AMD	04-08-021
388-290-0050	AMD-P	04-02-047	388-290-0130	AMD-P	04-02-047	388-290-0230	AMD	04-08-134
388-290-0050	AMD	04-08-021	388-290-0130	AMD-E	04-04-030	388-290-0235	AMD-P	04-02-047
388-290-0050	AMD	04-08-134	388-290-0130	AMD	04-08-021	388-290-0235	AMD	04-08-021
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388-290-0245	AMD	04-08-021	388-295-7040	AMD	04-09-093	388-296-0700	NEW-P	04-07-134
388-290-0245	AMD	04-08-134	388-295-7050	AMD-P	04-05-084	388-296-0710	NEW-P	04-07-134
388-290-0247	NEW-P	04-02-047	388-295-7050	AMD	04-09-093	388-296-0720	NEW-P	04-07-134
388-290-0247	NEW	04-08-021	388-296	NEW-C	04-10-095	388-296-0730	NEW-P	04-07-134
388-290-0247	NEW	04-08-134	388-296-0010	NEW-P	04-07-134	388-296-0740	NEW-P	04-07-134
388-290-0250	AMD-P	04-02-047	388-296-0020	NEW-P	04-07-134	388-296-0750	NEW-P	04-07-134
388-290-0250	AMD	04-08-021	388-296-0110	NEW-P	04-07-134	388-296-0760	NEW-P	04-07-134
388-290-0250	AMD	04-08-134	388-296-0120	NEW-P	04-07-134	388-296-0770	NEW-P	04-07-134
388-290-0255	AMD-P	04-02-047	388-296-0125	NEW-P	04-07-134	388-296-0780	NEW-P	04-07-134
388-290-0255	AMD	04-08-021	388-296-0130	NEW-P	04-07-134	388-296-0790	NEW-P	04-07-134
388-290-0255	AMD	04-08-134	388-296-0140	NEW-P	04-07-134	388-296-0800	NEW-P	04-07-134
388-290-0260	AMD-P	04-02-047	388-296-0150	NEW-P	04-07-134	388-296-0810	NEW-P	04-07-134
388-290-0260	AMD	04-08-021	388-296-0160	NEW-P	04-07-134	388-296-0820	NEW-P	04-07-134
388-290-0260	AMD	04-08-134	388-296-0170	NEW-P	04-07-134	388-296-0830	NEW-P	04-07-134
388-290-0265	AMD-P	04-02-047	388-296-0180	NEW-P	04-07-134	388-296-0840	NEW-P	04-07-134
388-290-0265	AMD	04-08-021	388-296-0190	NEW-P	04-07-134	388-296-0850	NEW-P	04-07-134
388-290-0265	AMD	04-08-134	388-296-0200	NEW-P	04-07-134	388-296-0860	NEW-P	04-07-134
388-290-0270	AMD-P	04-02-047	388-296-0210	NEW-P	04-07-134	388-296-0870	NEW-P	04-07-134
388-290-0270	AMD	04-08-021	388-296-0220	NEW-P	04-07-134	388-296-0880	NEW-P	04-07-134
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388-290-0270	PREP	04-13-046	388-296-0240	NEW-P	04-07-134	388-296-0900	NEW-P	04-07-134
388-290-0271	NEW-P	04-02-047	388-296-0250	NEW-P	04-07-134	388-296-0910	NEW-P	04-07-134
388-290-0271	NEW	04-08-021	388-296-0260	NEW-P	04-07-134	388-296-0920	NEW-P	04-07-134
388-290-0271	NEW	04-08-134	388-296-0270	NEW-P	04-07-134	388-296-0930	NEW-P	04-07-134
388-290-0273	NEW-P	04-02-047	388-296-0280	NEW-P	04-07-134	388-296-0940	NEW-P	04-07-134
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388-290-0273	NEW	04-08-134	388-296-0300	NEW-P	04-07-134	388-296-0960	NEW-P	04-07-134
388-295-0020	AMD-P	04-05-084	388-296-0310	NEW-P	04-07-134	388-296-0970	NEW-P	04-07-134
388-295-0020	AMD	04-09-093	388-296-0320	NEW-P	04-07-134	388-296-0980	NEW-P	04-07-134
388-295-0060	AMD-P	04-05-084	388-296-0330	NEW-P	04-07-134	388-296-0990	NEW-P	04-07-134
388-295-0060	AMD	04-09-093	388-296-0340	NEW-P	04-07-134	388-296-1000	NEW-P	04-07-134
388-295-0070	AMD-P	04-05-084	388-296-0350	NEW-P	04-07-134	388-296-1010	NEW-P	04-07-134
388-295-0070	AMD	04-09-093	388-296-0360	NEW-P	04-07-134	388-296-1020	NEW-P	04-07-134
388-295-0090	AMD-P	04-05-084	388-296-0370	NEW-P	04-07-134	388-296-1030	NEW-P	04-07-134
388-295-0090	AMD	04-09-093	388-296-0380	NEW-P	04-07-134	388-296-1040	NEW-P	04-07-134
388-295-0100	AMD-P	04-05-084	388-296-0390	NEW-P	04-07-134	388-296-1050	NEW-P	04-07-134
388-295-0100	AMD	04-09-093	388-296-0400	NEW-P	04-07-134	388-296-1060	NEW-P	04-07-134
388-295-0110	AMD-P	04-05-084	388-296-0410	NEW-P	04-07-134	388-296-1070	NEW-P	04-07-134
388-295-0110	AMD	04-09-093	388-296-0420	NEW-P	04-07-134	388-296-1080	NEW-P	04-07-134
388-295-1070	AMD-P	04-05-084	388-296-0430	NEW-P	04-07-134	388-296-1090	NEW-P	04-07-134
388-295-1070	AMD	04-09-093	388-296-0440	NEW-P	04-07-134	388-296-1100	NEW-P	04-07-134
388-295-1110	AMD-P	04-05-084	388-296-0450	NEW-P	04-07-134	388-296-1110	NEW-P	04-07-134
388-295-1110	AMD	04-09-093	388-296-0460	NEW-P	04-07-134	388-296-1120	NEW-P	04-07-134
388-295-2010	AMD-P	04-05-084	388-296-0470	NEW-P	04-07-134	388-296-1130	NEW-P	04-07-134
388-295-2010	AMD	04-09-093	388-296-0480	NEW-P	04-07-134	388-296-1140	NEW-P	04-07-134
388-295-2090	AMD-P	04-05-084	388-296-0490	NEW-P	04-07-134	388-296-1150	NEW-P	04-07-134
388-295-2090	AMD	04-09-093	388-296-0500	NEW-P	04-07-134	388-296-1160	NEW-P	04-07-134
388-295-2100	AMD-P	04-05-084	388-296-0510	NEW-P	04-07-134	388-296-1170	NEW-P	04-07-134
388-295-2100	AMD	04-09-093	388-296-0520	NEW-P	04-07-134	388-296-1180	NEW-P	04-07-134
388-295-3010	AMD-P	04-05-084	388-296-0530	NEW-P	04-07-134	388-296-1190	NEW-P	04-07-134
388-295-3010	AMD	04-09-093	388-296-0540	NEW-P	04-07-134	388-296-1200	NEW-P	04-07-134
388-295-4010	AMD-P	04-05-084	388-296-0550	NEW-P	04-07-134	388-296-1210	NEW-P	04-07-134
388-295-4010	AMD	04-09-093	388-296-0560	NEW-P	04-07-134	388-296-1220	NEW-P	04-07-134
388-295-4100	AMD-P	04-05-084	388-296-0570	NEW-P	04-07-134	388-296-1230	NEW-P	04-07-134
388-295-4100	AMD	04-09-093	388-296-0580	NEW-P	04-07-134	388-296-1240	NEW-P	04-07-134
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388-295-7010	AMD	04-09-093	388-296-0640	NEW-P	04-07-134	388-296-1300	NEW-P	04-07-134

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388-296-1330	NEW-P	04-07-134	388-424-0008	NEW-P	04-10-100	388-450-0005	AMD-W	04-04-034
388-296-1340	NEW-P	04-07-134	388-424-0009	NEW-P	04-10-100	388-450-0005	PREP	04-10-094
388-296-1350	NEW-P	04-07-134	388-424-0010	AMD-P	04-10-100	388-450-0005	PREP-W	04-13-099
388-296-1360	NEW-P	04-07-134	388-424-0015	AMD-P	04-10-100	388-450-0015	PREP	04-13-107
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388-296-1400	NEW-P	04-07-134	388-426	PREP-W	04-03-052	388-450-0100	PREP	04-05-034
388-296-1410	NEW-P	04-07-134	388-426-0005	AMD	04-03-050	388-450-0100	AMD-P	04-10-099
388-296-1420	NEW-P	04-07-134	388-434-0005	AMD	04-03-019	388-450-0106	AMD-P	04-10-099
388-296-1430	NEW-P	04-07-134	388-434-0005	PREP	04-07-086	388-450-0116	AMD-P	04-10-099
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388-296-1450	NEW-P	04-07-134	388-436-0002	AMD-P	04-02-049	388-450-0140	AMD-E	04-14-039
388-310-0800	AMD-E	04-14-044	388-436-0002	AMD-E	04-03-098	388-450-0140	AMD	04-14-040
388-310-1500	AMD-C	04-02-058	388-436-0002	AMD	04-07-023	388-450-0150	REP	04-09-005
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388-310-1600	AMD-P	04-03-095	388-436-0015	AMD	04-05-013	388-450-0165	AMD-C	04-02-058
388-310-1600	AMD	04-07-025	388-436-0040	AMD-C	04-02-058	388-450-0165	AMD	04-05-010
388-310-1650	AMD-P	04-03-095	388-436-0040	AMD	04-05-010	388-450-0170	AMD	04-03-051
388-310-1650	AMD	04-07-025	388-438-0100	REP-P	04-04-074	388-450-0185	PREP	04-12-092
388-310-2000	AMD-C	04-02-058	388-438-0100	REP-E	04-06-023	388-450-0190	AMD-P	04-04-075
388-310-2000	AMD	04-05-010	388-438-0100	REP	04-07-141	388-450-0190	AMD	04-07-138
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388-400-0010	AMD-P	04-10-099	388-440-0001	AMD-C	04-02-058	388-450-0215	AMD	04-06-052
388-400-0025	AMD-P	04-10-099	388-440-0001	AMD	04-05-010	388-450-0500	PREP	04-07-085
388-400-0040	AMD-P	04-10-096	388-442-0010	PREP	04-10-091	388-452-0005	AMD-P	04-06-040
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388-400-0040	AMD	04-14-040	388-444-0055	AMD-C	04-02-058	388-454-0010	AMD	04-05-012
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388-408-0034	AMD-P	04-02-050	388-446-0005	AMD-P	04-03-094	388-462-0020	AMD-P	04-10-099
388-408-0034	AMD	04-06-025	388-446-0005	AMD	04-13-097	388-466-0130	AMD-C	04-02-058
388-408-0035	AMD-P	04-02-050	388-448-0001	AMD-P	04-02-048	388-466-0130	AMD	04-05-010
388-408-0035	AMD	04-06-025	388-448-0001	AMD	04-07-140	388-470-0040	REP	04-09-003
388-408-0035	AMD-P	04-10-096	388-448-0010	AMD-P	04-02-048	388-472-0010	AMD-P	04-03-093
388-408-0035	AMD-E	04-14-039	388-448-0010	AMD	04-07-140	388-472-0010	AMD	04-14-037
388-408-0035	AMD	04-14-040	388-448-0020	AMD-P	04-02-048	388-473-0010	PREP	04-12-097
388-410-0001	AMD-C	04-02-058	388-448-0020	AMD	04-07-140	388-475-0050	NEW	04-09-002
388-410-0001	AMD	04-05-010	388-448-0030	AMD-P	04-02-048	388-475-0100	NEW	04-09-002
388-412-0005	PREP	04-13-100	388-448-0030	AMD	04-07-140	388-475-0150	NEW	04-09-002
388-412-0015	AMD-P	04-13-098	388-448-0120	AMD-P	04-02-048	388-475-0200	NEW	04-09-002
388-414-0001	AMD-P	04-04-076	388-448-0120	AMD	04-07-140	388-475-0250	NEW	04-09-002
388-414-0001	AMD	04-07-139	388-448-0160	AMD-P	04-02-048	388-475-0300	NEW	04-09-002
388-414-0001	PREP	04-08-036	388-448-0160	AMD-E	04-02-051	388-475-0350	NEW	04-09-003
388-414-0001	AMD-E	04-10-061	388-448-0160	AMD-E	04-03-010E	388-475-0400	NEW	04-09-003
388-414-0001	AMD-P	04-10-098	388-448-0160	AMD	04-07-140	388-475-0450	NEW	04-09-003
388-414-0001	AMD	04-14-038	388-448-0170	REP-P	04-02-048	388-475-0500	NEW	04-09-003
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388-416-0020	PREP	04-13-102	388-448-0170	REP-E	04-03-010E	388-475-0600	NEW	04-09-004
388-416-0030	REP-P	04-04-074	388-448-0170	REP	04-07-140	388-475-0650	NEW	04-09-004
388-416-0030	REP	04-07-141	388-448-0180	AMD-P	04-02-048	388-475-0700	NEW	04-09-004
388-416-0035	PREP	04-12-098	388-448-0180	AMD	04-07-140	388-475-0750	NEW	04-09-004
388-418-0005	AMD-W	04-02-052	388-448-0190	REP-P	04-02-048	388-475-0800	NEW	04-09-005
388-418-0005	AMD-P	04-02-072	388-448-0190	REP-E	04-02-051	388-475-0820	NEW	04-09-005
388-418-0005	AMD-E	04-02-073	388-448-0190	REP-E	04-03-010E	388-475-0840	NEW	04-09-005
388-418-0005	AMD	04-06-026	388-448-0190	REP	04-07-140	388-475-0860	NEW	04-09-005
388-418-0025	AMD	04-03-019	388-448-0200	AMD-P	04-02-048	388-475-0880	NEW	04-09-005
388-424-0001	NEW-P	04-10-100	388-448-0200	AMD	04-07-140	388-475-0900	NEW	04-09-005
388-424-0005	REP-P	04-10-100	388-448-0210	AMD-P	04-02-048	388-475-1050	AMD-X	04-09-091
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388-478-0005	AMD	04-05-010	388-513-1380	AMD-C	04-02-056	388-533-0320	NEW-P	04-05-083
388-478-0055	AMD-S	04-03-096	388-513-1380	AMD	04-04-072	388-533-0320	NEW	04-13-049
388-478-0055	AMD	04-07-024	388-515-1510	AMD-E	04-08-019	388-533-0325	NEW-P	04-05-083
388-478-0060	PREP	04-12-092	388-515-1510	AMD-P	04-12-101	388-533-0325	NEW	04-13-049
388-478-0075	AMD-E	04-07-143	388-515-1550	NEW-E	04-10-062	388-533-0330	NEW-P	04-05-083
388-478-0075	PREP	04-07-165	388-515-1550	NEW-P	04-10-101	388-533-0330	NEW	04-13-049
388-478-0075	AMD-E	04-09-001	388-517-0300	PREP	04-10-090	388-533-0340	NEW-P	04-05-083
388-478-0075	AMD-P	04-12-042	388-519-0100	PREP	04-13-102	388-533-0340	NEW	04-13-049
388-478-0080	AMD-E	04-11-013	388-519-0110	PREP	04-13-102	388-533-0345	NEW-P	04-05-083
388-478-0080	AMD-P	04-13-134	388-526	PREP	04-04-096	388-533-0345	NEW	04-13-049
388-478-0085	AMD-E	04-07-167	388-527-2700	AMD-P	04-05-082	388-533-0350	REP-P	04-05-083
388-478-0085	AMD-P	04-13-135	388-527-2700	AMD	04-10-060	388-533-0350	REP	04-13-049
388-484-0005	AMD-C	04-02-058	388-527-2730	AMD-P	04-05-082	388-533-0360	NEW-P	04-05-083
388-484-0005	AMD	04-05-010	388-527-2730	AMD	04-10-060	388-533-0360	NEW	04-13-049
388-492	PREP-W	04-04-094	388-527-2733	AMD-P	04-05-082	388-533-0365	NEW-P	04-05-083
388-492	PREP	04-04-097	388-527-2733	AMD	04-10-060	388-533-0365	NEW	04-13-049
388-492-0010	REP-E	04-05-003	388-527-2740	AMD-P	04-05-082	388-533-0370	NEW-P	04-05-083
388-492-0010	REP-E	04-13-001	388-527-2740	AMD	04-10-060	388-533-0370	NEW	04-13-049
388-492-0020	AMD-E	04-05-003	388-527-2742	AMD-P	04-05-082	388-533-0375	NEW-P	04-05-083
388-492-0020	AMD-E	04-13-001	388-527-2742	AMD	04-10-060	388-533-0375	NEW	04-13-049
388-492-0030	AMD-E	04-05-003	388-527-2750	AMD-P	04-05-082	388-533-0380	NEW-P	04-05-083
388-492-0030	AMD-E	04-13-001	388-527-2750	AMD	04-10-060	388-533-0380	NEW	04-13-049
388-492-0040	AMD-E	04-05-003	388-527-2754	AMD-P	04-05-082	388-533-0385	NEW-P	04-05-083
388-492-0040	PREP	04-12-092	388-527-2754	AMD	04-10-060	388-533-0385	NEW	04-13-049
388-492-0040	AMD-E	04-13-001	388-527-2790	AMD-P	04-05-082	388-533-0386	NEW-P	04-05-083
388-492-0050	AMD-E	04-05-003	388-527-2790	AMD	04-10-060	388-533-0386	NEW	04-13-049
388-492-0050	AMD-E	04-13-001	388-527-2792	NEW-P	04-05-082	388-533-0390	NEW-P	04-05-083
388-492-0060	AMD-E	04-05-003	388-527-2792	NEW	04-10-060	388-533-0390	NEW	04-13-049
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388-492-0070	AMD-E	04-05-003	388-527-2795	AMD	04-10-060	388-533-0500	PREP	04-14-098
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388-492-0080	AMD-E	04-05-003	388-530-1125	PREP	04-09-035	388-533-701	NEW	04-11-008
388-492-0080	AMD-E	04-13-001	388-530-1200	PREP	04-09-035	388-533-710	NEW-P	04-07-136
388-492-0090	AMD-E	04-05-003	388-530-1250	PREP	04-09-035	388-533-710	NEW	04-11-008
388-492-0090	AMD-E	04-13-001	388-530-1260	PREP	04-09-035	388-533-720	NEW-P	04-07-136
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388-492-0100	AMD-E	04-13-001	388-530-1850	AMD-P	04-07-137	388-533-730	NEW-P	04-07-136
388-492-0110	AMD-E	04-05-003	388-530-1850	AMD	04-11-009	388-533-730	NEW	04-11-008
388-492-0110	AMD-E	04-13-001	388-531	PREP	04-12-093	388-535	PREP	04-07-115
388-492-0120	AMD-E	04-05-003	388-531-0050	PREP	04-13-103	388-535-1050	AMD-X	04-07-142
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388-492-0130	AMD-E	04-05-003	388-532-001	NEW	04-05-011	388-535-1065	AMD-X	04-07-142
388-492-0130	AMD-E	04-13-001	388-532-050	AMD	04-05-011	388-535-1065	AMD	04-14-100
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388-501-0165	AMD-W	04-11-059	388-532-110	NEW	04-05-011	388-535A-0050	AMD-E	04-12-041
388-502-0160	PREP	04-07-088	388-532-120	NEW	04-05-011	388-535A-0060	AMD-E	04-04-073
388-503-0505	AMD-P	04-04-074	388-532-130	NEW	04-05-011	388-535A-0060	AMD-E	04-12-041
388-503-0505	AMD-E	04-06-023	388-532-140	NEW	04-05-011	388-538	PREP	04-13-101
388-503-0505	AMD	04-07-141	388-532-500	NEW	04-05-011	388-538-060	PREP-W	04-14-034
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388-505-0110	AMD-P	04-09-090	388-532-520	NEW	04-05-011	388-538-063	NEW-P	04-09-090
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388-513-1301	AMD-P	04-12-101	388-533-0300	AMD	04-13-049	388-542-0020	NEW-P	04-13-140
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388-542-0150	REP-P	04-13-140	388-551	PREP	04-02-061	388-825-140	NEW-E	04-08-020
388-542-0200	REP-P	04-13-140	388-551	PREP-W	04-07-111	388-825-145	NEW-E	04-08-020
388-542-0220	REP-P	04-13-140	388-551	PREP	04-07-114	388-825-150	NEW-E	04-08-020
388-542-0250	AMD-E	04-13-137	388-553-100	NEW-C	04-02-055	388-825-155	NEW-E	04-08-020
388-542-0250	REP-P	04-13-140	388-553-100	NEW	04-11-007	388-825-160	NEW-E	04-08-020
388-542-0275	REP-P	04-13-140	388-553-200	NEW-C	04-02-055	388-825-165	NEW-E	04-08-020
388-542-0300	AMD-P	04-13-140	388-553-200	NEW	04-11-007	388-825-170	REP-E	04-08-020
388-542-0500	AMD	04-08-018	388-553-300	NEW-C	04-02-055	388-825-180	REP-E	04-08-020
388-542-0500	REP-P	04-13-140	388-553-300	NEW	04-11-007	388-825-190	REP-E	04-08-020
388-544	PREP-W	04-04-031	388-553-400	NEW-C	04-02-055	388-825-210	PREP	04-12-091
388-544	PREP	04-07-087	388-553-400	NEW	04-11-007	388-825-228	PREP	04-12-091
388-545	PREP-W	04-04-031	388-553-500	NEW-C	04-02-055	388-825-230	PREP	04-12-091
388-546	PREP	04-02-060	388-553-500	NEW	04-11-007	388-825-232	PREP	04-12-091
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388-546-0100	AMD-P	04-12-103	388-720-0020	AMD	04-05-080	388-825-236	PREP	04-12-091
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388-546-0250	AMD-P	04-12-103	388-820-020	AMD	04-04-043	388-825-248	PREP	04-12-091
388-546-0300	AMD-P	04-12-103	388-820-030	AMD	04-04-043	388-825-252	PREP	04-12-091
388-546-0400	AMD-P	04-12-103	388-820-050	AMD	04-04-043	388-825-253	PREP	04-12-091
388-546-0425	NEW-P	04-12-103	388-820-056	NEW	04-04-043	388-825-254	PREP	04-12-091
388-546-0450	AMD-P	04-12-103	388-820-060	AMD	04-04-043	388-825-260	REP-E	04-08-020
388-546-0500	AMD-P	04-12-103	388-820-070	AMD	04-04-043	388-825-262	REP-E	04-08-020
388-546-0600	AMD-P	04-12-103	388-820-076	NEW	04-04-043	388-825-264	REP-E	04-08-020
388-546-0700	AMD-P	04-12-103	388-820-086	NEW	04-04-043	388-825-266	REP-E	04-08-020
388-546-0800	AMD-P	04-12-103	388-820-090	AMD	04-04-043	388-825-268	REP-E	04-08-020
388-546-0900	NEW-P	04-12-103	388-820-100	AMD	04-04-043	388-825-270	REP-E	04-08-020
388-546-1000	AMD-P	04-12-103	388-820-120	AMD	04-04-043	388-825-272	REP-E	04-08-020
388-546-1500	NEW-P	04-12-103	388-820-230	AMD	04-04-043	388-825-276	REP-E	04-08-020
388-546-2500	NEW-P	04-12-103	388-820-260	AMD	04-04-043	388-825-278	REP-E	04-08-020
388-546-3000	NEW-P	04-12-103	388-820-290	AMD	04-04-043	388-825-280	REP-E	04-08-020
388-546-4000	NEW-P	04-12-103	388-820-300	AMD	04-04-043	388-825-282	REP-E	04-08-020
388-547	PREP-W	04-04-031	388-820-310	AMD	04-04-043	388-825-284	REP-E	04-08-020
388-550	PREP	04-03-092	388-820-320	AMD	04-04-043	388-825-300	NEW-E	04-08-020
388-550	PREP	04-12-093	388-820-330	AMD	04-04-043	388-825-305	NEW-E	04-08-020
388-550	PREP	04-13-103	388-820-340	AMD	04-04-043	388-825-310	NEW-E	04-08-020
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388-550-1750	PREP	04-13-103	388-820-405	NEW	04-04-043	388-825-325	NEW-E	04-08-020
388-550-2800	PREP	04-03-091	388-820-410	AMD	04-04-043	388-825-330	NEW-E	04-08-020
388-550-2900	PREP	04-03-091	388-820-550	AMD	04-04-043	388-825-335	NEW-E	04-08-020
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388-550-3100	PREP	04-05-085A	388-820-560	AMD	04-04-043	388-825-345	NEW-E	04-08-020
388-550-3100	AMD-P	04-08-123	388-820-600	AMD	04-04-043	388-825-355	NEW-E	04-08-020
388-550-3100	AMD	04-13-048	388-820-650	AMD	04-04-043	388-825-360	NEW-E	04-08-020
388-550-3800	PREP	04-13-105	388-820-690	AMD	04-04-043	388-825-365	NEW-E	04-08-020
388-550-4900	PREP	04-03-090	388-825	PREP	04-08-071	388-825-370	NEW-E	04-08-020
388-550-4900	AMD-P	04-08-124	388-825-030	AMD-E	04-14-003	388-825-375	NEW-E	04-08-020
388-550-4900	AMD	04-12-044	388-825-070	AMD-P	04-08-072	388-825-380	NEW-E	04-08-020
388-550-5000	PREP	04-03-090	388-825-070	AMD	04-11-087	388-825-385	NEW-E	04-08-020
388-550-5100	PREP	04-03-090	388-825-090	AMD-P	04-08-072	388-825-390	NEW-E	04-08-020
388-550-5100	AMD-P	04-08-124	388-825-090	AMD	04-11-087	388-825-395	NEW-E	04-08-020
388-550-5100	AMD	04-12-044	388-825-100	AMD-P	04-12-100	388-825-400	NEW-E	04-08-020
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388-550-5200	AMD-P	04-08-124	388-825-102	NEW-P	04-12-100	388-827-0110	AMD-P	04-12-102
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388-835-0090	AMD-P	04-12-099	388-845-0800	NEW-E	04-08-020	388-865-0335	PREP	04-05-085
388-835-0100	AMD-E	04-10-016	388-845-0805	NEW-E	04-08-020	388-865-0340	PREP	04-05-085
388-835-0100	AMD-P	04-12-099	388-845-0810	NEW-E	04-08-020	388-865-0465	AMD-P	04-05-081
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388-835-0115	AMD-P	04-12-099	388-845-0900	NEW-E	04-08-020	388-865-0500	AMD	04-07-014
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388-835-0135	REP-P	04-12-099	388-845-0910	NEW-E	04-08-020	388-865-0502	REP	04-07-014
388-835-0140	AMD-E	04-10-016	388-845-1000	NEW-E	04-08-020	388-865-0504	REP	04-07-014
388-835-0140	AMD-P	04-12-099	388-845-1010	NEW-E	04-08-020	388-865-0505	REP	04-07-014
388-837-9005	NEW-E	04-10-016	388-845-1015	NEW-E	04-08-020	388-865-0510	REP	04-07-014
388-837-9005	NEW-P	04-12-099	388-845-1100	NEW-E	04-08-020	388-865-0511	NEW	04-07-014
388-837-9015	NEW-E	04-10-016	388-845-1105	NEW-E	04-08-020	388-865-0515	REP	04-07-014
388-837-9015	NEW-P	04-12-099	388-845-1110	NEW-E	04-08-020	388-865-0516	NEW	04-07-014
388-837-9020	NEW-E	04-10-016	388-845-1200	NEW-E	04-08-020	388-865-0520	NEW	04-07-014
388-837-9020	NEW-P	04-12-099	388-845-1205	NEW-E	04-08-020	388-865-0525	REP	04-07-014
388-837-9030	NEW-E	04-10-016	388-845-1210	NEW-E	04-08-020	388-865-0526	NEW	04-07-014
388-837-9030	NEW-P	04-12-099	388-845-1300	NEW-E	04-08-020	388-865-0530	REP	04-07-014
388-837-9040	NEW-E	04-10-016	388-845-1305	NEW-E	04-08-020	388-865-0531	NEW	04-07-014
388-837-9040	NEW-P	04-12-099	388-845-1310	NEW-E	04-08-020	388-865-0535	REP	04-07-014
388-845-0010	NEW-E	04-08-020	388-845-1400	NEW-E	04-08-020	388-865-0536	NEW	04-07-014
388-845-0015	NEW-E	04-08-020	388-845-1405	NEW-E	04-08-020	388-865-0540	REP	04-07-014
388-845-0020	NEW-E	04-08-020	388-845-1410	NEW-E	04-08-020	388-865-0541	NEW	04-07-014
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388-845-0030	NEW-E	04-08-020	388-845-1505	NEW-E	04-08-020	388-865-0546	REP-W	04-08-028
388-845-0035	NEW-E	04-08-020	388-845-1510	NEW-E	04-08-020	388-865-0547	NEW	04-07-014
388-845-0040	NEW-E	04-08-020	388-845-1515	NEW-E	04-08-020	388-865-0550	REP	04-07-014
388-845-0045	NEW-E	04-08-020	388-845-1600	NEW-E	04-08-020	388-865-0551	NEW	04-07-014
388-845-0050	NEW-E	04-08-020	388-845-1605	NEW-E	04-08-020	388-865-0555	REP	04-07-014
388-845-0055	NEW-E	04-08-020	388-845-1610	NEW-E	04-08-020	388-865-0557	REP	04-07-014
388-845-0060	NEW-E	04-08-020	388-845-1615	NEW-E	04-08-020	388-865-0560	REP	04-07-014
388-845-0065	NEW-E	04-08-020	388-845-1620	NEW-E	04-08-020	388-865-0561	NEW	04-07-014
388-845-0070	NEW-E	04-08-020	388-845-1700	NEW-E	04-08-020	388-865-0565	REP	04-07-014
388-845-0075	NEW-E	04-08-020	388-845-1705	NEW-E	04-08-020	388-865-0566	NEW	04-07-014
388-845-0080	NEW-E	04-08-020	388-845-1710	NEW-E	04-08-020	388-865-0570	NEW	04-07-014
388-845-0085	NEW-E	04-08-020	388-845-1800	NEW-E	04-08-020	388-865-0575	NEW	04-07-014
388-845-0090	NEW-E	04-08-020	388-845-1805	NEW-E	04-08-020	388-865-0580	NEW	04-07-014
388-845-0095	NEW-E	04-08-020	388-845-1810	NEW-E	04-08-020	388-865-0585	NEW	04-07-014
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388-845-0105	NEW-E	04-08-020	388-845-1905	NEW-E	04-08-020	390	PREP	04-05-070
388-845-0110	NEW-E	04-08-020	388-845-1910	NEW-E	04-08-020	390- 05-295	NEW-P	04-08-086
388-845-0115	NEW-E	04-08-020	388-845-2000	NEW-E	04-08-020	390- 05-295	NEW	04-12-052
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388-845-0205	NEW-E	04-08-020	388-845-2100	NEW-E	04-08-020	390- 16-207	AMD-P	04-08-086
388-845-0210	NEW-E	04-08-020	388-845-2105	NEW-E	04-08-020	390- 16-207	AMD	04-12-054
388-845-0215	NEW-E	04-08-020	388-845-2110	NEW-E	04-08-020	390- 16-238	AMD-P	04-08-086
388-845-0220	NEW-E	04-08-020	388-845-2200	NEW-E	04-08-020	390- 16-238	AMD	04-12-055
388-845-0300	NEW-E	04-08-020	388-845-2205	NEW-E	04-08-020	390- 17-030	AMD-P	04-08-086
388-845-0305	NEW-E	04-08-020	388-845-2210	NEW-E	04-08-020	390- 17-030	AMD	04-12-056
388-845-0310	NEW-E	04-08-020	388-845-3000	NEW-E	04-08-020	390- 18-030	AMD-P	04-08-086
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388-845-0405	NEW-E	04-08-020	388-845-3010	NEW-E	04-08-020	390- 37-030	AMD-P	04-08-086
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388-845-0505	NEW-E	04-08-020	388-845-3025	NEW-E	04-08-020	390- 37-041	AMD-P	04-08-086
388-845-0510	NEW-E	04-08-020	388-845-3030	NEW-E	04-08-020	390- 37-041	AMD	04-12-059
388-845-0600	NEW-E	04-08-020	388-845-3035	NEW-E	04-08-020	392-121-124	AMD-P	04-08-127
388-845-0605	NEW-E	04-08-020	388-845-4000	NEW-E	04-08-020	392-121-124	AMD	04-14-068
388-845-0610	NEW-E	04-08-020	388-845-4005	NEW-E	04-08-020	392-136-020	PREP	04-06-048
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392-140-605	AMD-P	04-04-005	415-110-010	AMD	04-04-041	434-120-103	AMD	04-04-018
392-140-605	AMD	04-08-118	415-110-680	AMD	04-04-041	434-120-105	AMD	04-04-018
392-140-608	AMD-P	04-04-005	415-110-680	AMD	04-14-023	434-120-110	NEW	04-04-018
392-140-608	AMD	04-08-118	415-110-685	NEW	04-04-041	434-120-145	AMD	04-04-018
392-140-609	AMD-P	04-04-005	415-110-710	AMD	04-04-037	434-120-155	REP	04-04-018
392-140-609	AMD	04-08-118	415-110-728	AMD	04-04-041	434-120-160	AMD	04-04-018
392-140-626	AMD-P	04-04-005	415-110-817	NEW-P	04-13-036	434-120-170	AMD	04-04-018
392-140-626	AMD	04-08-118	415-110-910	AMD	04-04-041	434-120-212	AMD	04-04-018
392-140-630	AMD-P	04-04-005	415-112-150	NEW-P	04-13-036	434-120-215	AMD	04-04-018
392-140-630	AMD	04-08-118	415-112-430	AMD-P	04-05-063	434-120-240	AMD	04-04-018
392-140-640	AMD-P	04-04-005	415-112-430	AMD	04-12-020	434-120-250	AMD	04-04-018
392-140-640	AMD	04-08-118	415-501	PREP	04-12-019	434-120-260	AMD	04-04-018
392-140-643	AMD-P	04-04-005	434-12-005	NEW	04-04-018	434-120-305	AMD	04-04-018
392-140-643	AMD	04-08-118	434-12-010	REP	04-05-041	434-120-307	NEW	04-04-018
392-140-646	AMD-P	04-04-005	434-12-015	NEW	04-05-041	434-120-310	AMD	04-04-018
392-140-646	AMD	04-08-118	434-12-020	REP	04-05-041	434-120-320	REP	04-04-018
392-140-653	AMD-P	04-04-005	434-12-025	NEW	04-04-018	434-120-330	AMD	04-04-018
392-140-653	AMD	04-08-118	434-12-030	REP	04-05-041	434-120-345	NEW	04-04-018
392-142-115	REP-P	04-05-054	434-12-040	REP	04-05-041	434-120-355	NEW	04-04-018
392-142-115	REP	04-08-116	434-12-050	REP	04-05-041	434-120-360	NEW	04-04-018
392-142-130	REP-P	04-05-054	434-12-060	REP	04-05-041	434-130-020	REP	04-04-018
392-142-130	REP	04-08-116	434-12-070	REP	04-05-041	434-130-030	REP	04-04-018
392-142-135	REP-P	04-05-054	434-12-080	REP	04-05-041	434-135-020	REP	04-04-018
392-142-135	REP	04-08-116	434-12-090	REP	04-05-041	434-135-030	REP	04-04-018
392-142-165	AMD-P	04-05-054	434-12-100	REP	04-05-041	434-135-070	REP	04-04-018
392-142-165	AMD	04-08-116	434-12-110	REP	04-05-041	434-180-110	REP	04-04-018
392-142-205	AMD-P	04-05-054	434-12-120	REP	04-05-041	434-208-060	AMD-X	04-10-084
392-142-205	AMD	04-08-116	434-12-130	REP	04-05-041	434-215-005	AMD-X	04-10-084
392-143-010	AMD-P	04-05-055	434-12-140	REP	04-05-041	434-219-140	AMD-W	04-13-067
392-143-010	AMD	04-08-117	434-12-150	REP	04-05-041	434-230-010	AMD-X	04-10-084
392-143-015	AMD-P	04-05-055	434-12-160	REP	04-05-041	434-230-070	AMD-X	04-10-084
392-143-015	AMD	04-08-117	434-12-170	REP	04-05-041	434-230-170	AMD-X	04-10-084
392-143-030	AMD-P	04-05-055	434-12-180	REP	04-05-041	434-230-210	AMD-X	04-10-084
392-143-030	AMD	04-08-117	434-12-200	REP	04-05-041	434-230-220	AMD-X	04-10-084
392-143-031	AMD-P	04-05-055	434-12-210	REP	04-05-041	434-238-030	AMD-X	04-10-084
392-143-031	AMD	04-08-117	434-12-220	REP	04-05-041	434-238-060	AMD-X	04-10-084
392-143-032	AMD-P	04-05-055	434-12-230	REP	04-05-041	434-238-100	AMD-X	04-10-084
392-143-032	AMD	04-08-117	434-110-070	REP	04-04-018	434-238-110	AMD-X	04-10-084
392-143-050	AMD-P	04-05-055	434-110-080	REP	04-04-018	434-238-170	AMD-X	04-10-084
392-143-050	AMD	04-08-117	434-110-090	REP	04-04-018	434-240-005	AMD-X	04-10-084
392-143-061	REP-P	04-05-055	434-110-100	AMD	04-04-018	434-240-010	AMD-X	04-10-084
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463-76-065	RECOD-P	04-13-154	478-116-145	AMD	04-13-086	478-168-300	REP-P	04-09-076
463-76-080	RECOD-P	04-13-154	478-116-161	AMD-P	04-07-127	478-168-300	REP	04-13-087
463-76-090	RECOD-P	04-13-154	478-116-161	AMD	04-13-086	478-168-310	AMD-P	04-09-076
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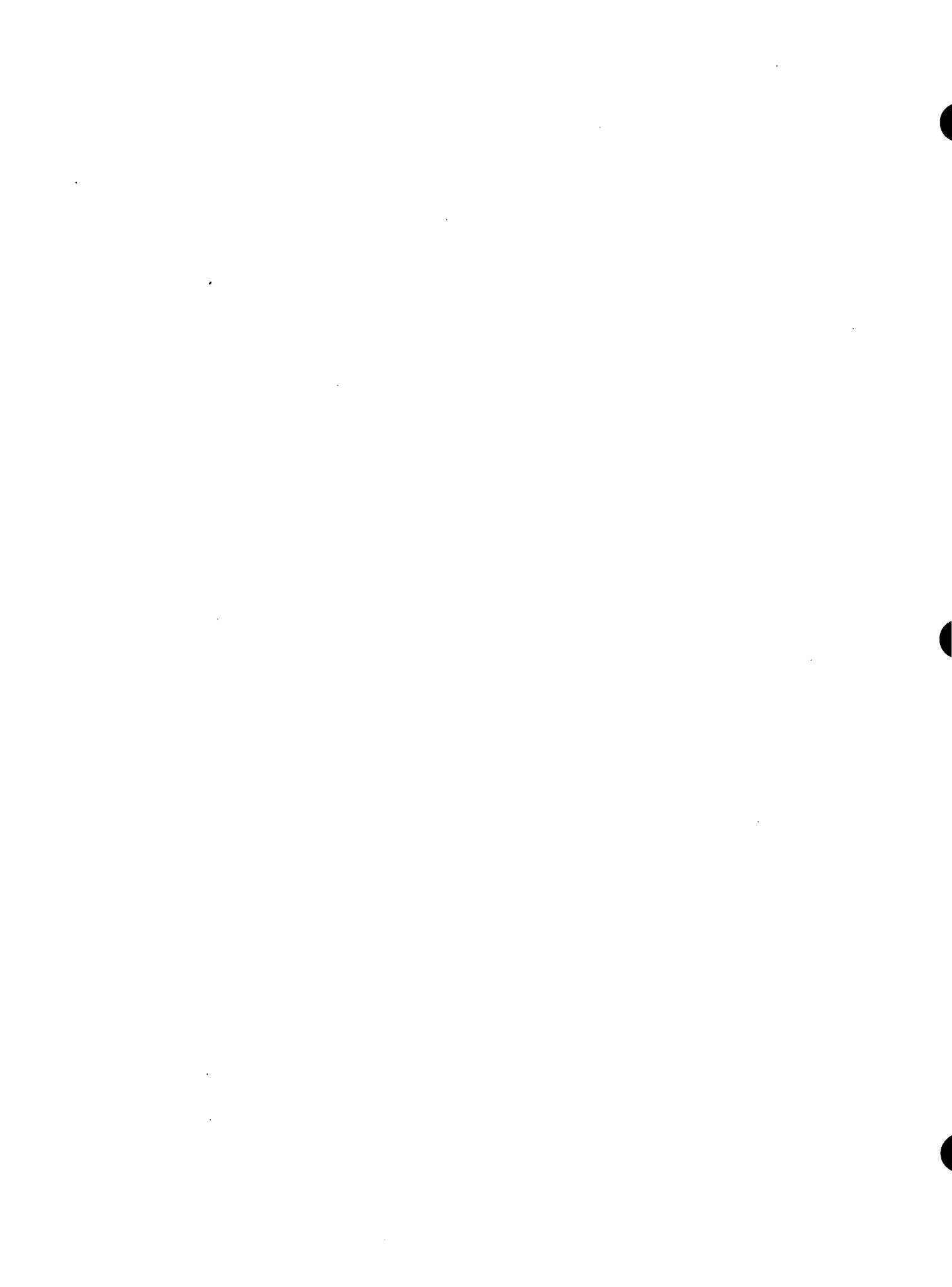
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