

Washington State Register

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OLYMPIA, WASHINGTON

ISSUE 99-03



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filed not later than January 20, 1999

CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

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

REPUBLICATION OF OFFICIAL DOCUMENTS

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

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of January 1999 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

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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.

Mary F. Gallagher Dilley
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Code Reviser

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Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following nine sections:

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

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

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

4. EFFECTIVE DATE OF RULES

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

5. EDITORIAL CORRECTIONS

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

1998 - 1999

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³	Expedited Adoption ⁴
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS ² or 10 p. max. Non-OTS	Count 20 days from -	For hearing on or after	First Agency Adoption Date
For Inclusion in -	File no later than 12:00 noon -					
98 - 16	Jul 7, 98	Jul 21, 98	Aug 5, 98	Aug 18, 98	Sep 7, 98	Oct 2, 98
98 - 17	Jul 22, 98	Aug 5, 98	Aug 19, 98	Sep 2, 98	Sep 22, 98	Oct 17, 98
98 - 18	Aug 5, 98	Aug 19, 98	Sep 2, 98	Sep 16, 98	Oct 6, 98	Oct 31, 98
98 - 19	Aug 26, 98	Sep 9, 98	Sep 23, 98	Oct 7, 98	Oct 27, 98	Nov 21, 98
98 - 20	Sep 9, 98	Sep 23, 98	Oct 7, 98	Oct 21, 98	Nov 10, 98	Dec 5, 98
98 - 21	Sep 23, 98	Oct 7, 98	Oct 21, 98	Nov 4, 98	Nov 24, 98	Dec 19, 98
98 - 22	Oct 7, 98	Oct 21, 98	Nov 4, 98	Nov 18, 98	Dec 8, 98	Jan 2, 99
98 - 23	Oct 21, 98	Nov 4, 98	Nov 18, 98	Dec 2, 98	Dec 22, 98	Jan 16, 99
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99 - 07	Feb 24, 99	Mar 10, 99	Mar 24, 99	Apr 7, 99	Apr 27, 99	May 22, 99
99 - 08	Mar 10, 99	Mar 24, 99	Apr 7, 99	Apr 21, 99	May 11, 99	Jun 5, 99
99 - 09	Mar 24, 99	Apr 7, 99	Apr 21, 99	May 5, 99	May 25, 99	Jun 19, 99
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99 - 19	Aug 25, 99	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 26, 99	Nov 20, 99
99 - 20	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 9, 99	Dec 4, 99
99 - 21	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 23, 99	Dec 18, 99
99 - 22	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 7, 99	Jan 1, 00
99 - 23	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 21, 99	Jan 15, 00
99 - 24	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 15, 99	Jan 4, 00	Jan 29, 00

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

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

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

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

REGULATORY FAIRNESS ACT

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

Small Business Economic Impact Statements (SBEIS)

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

Mitigation

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

When is an SBEIS Required?

When:

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

When is an SBEIS Not Required?

When:

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

There is less than minor economic impact on business;

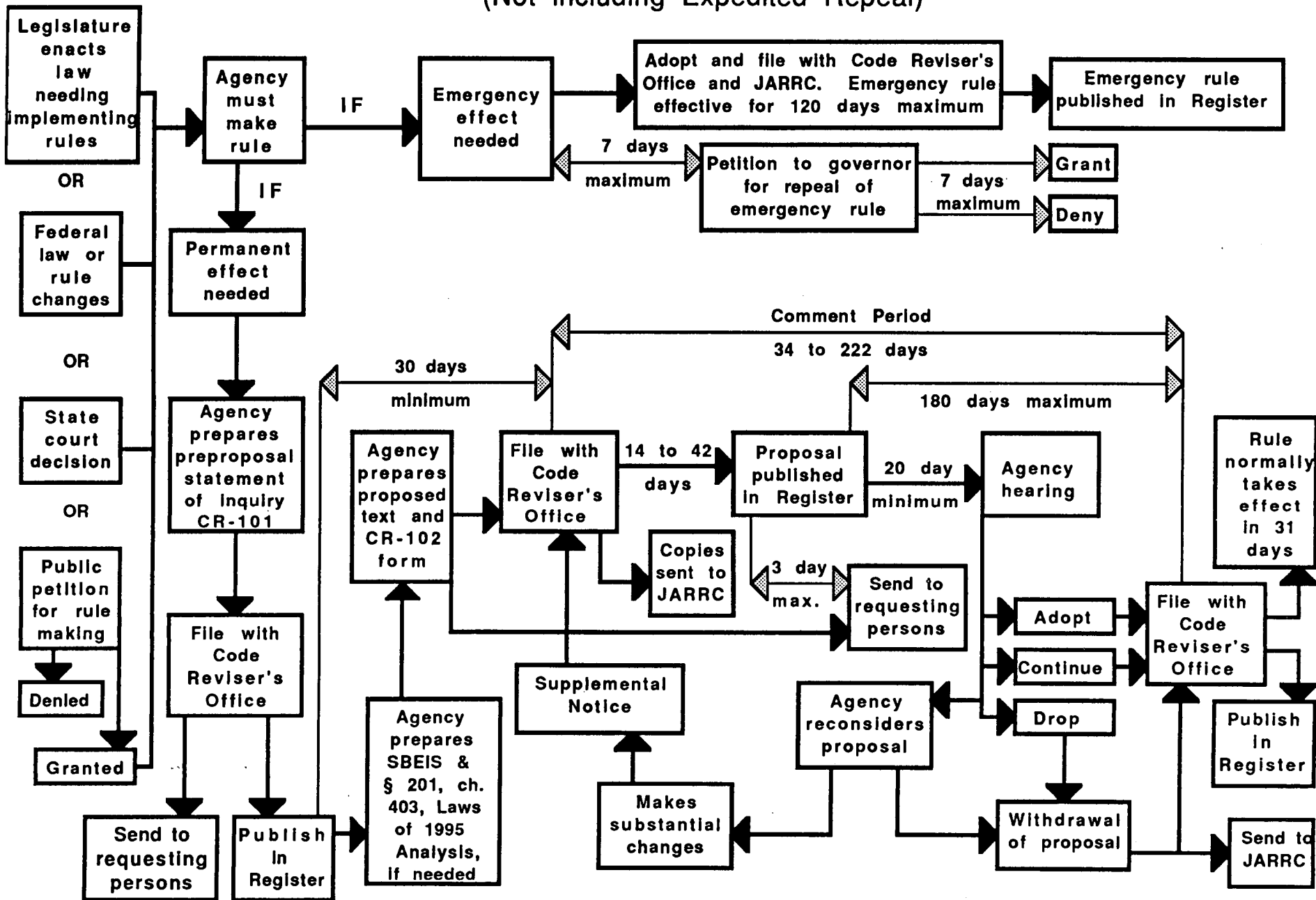
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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

The rule is pure restatement of state statute.

RULE-MAKING PROCESS

(Not including Expedited Repeal)



WSR 99-03-003**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed January 7, 1999, 1:15 p.m.]

Subject of Possible Rule Making: Chapter 308-96A WAC, Vehicle licenses, to include but not limited to WAC 308-96A-080, 308-96A-085, 308-96A-090, and 308-96A-097.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.08.066.

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

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

Process for Developing New Rule: Negotiated rule making.

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

January 7, 1999

Nancy S. Kelly, Administrator
Title and Registration Services

WSR 99-03-014**PREPROPOSAL STATEMENT OF INQUIRY
HORSE RACING COMMISSION**

[Filed January 8, 1999, 11:14 a.m.]

Subject of Possible Rule Making: Chapter 260-75 WAC, Satellite locations.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Adding new sections regarding policies for satellite locations.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98516-5702, (360) 459-6462, fax (360) 459-6461.

January 7, 1999

Bruce Batson
Executive Secretary

WSR 99-03-040**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed January 14, 1999, 3:41 p.m.]

Subject of Possible Rule Making: WAC 388-470-0005 Resource eligibility and limits, 388-470-0010 Resource ownership, 388-470-0015 Resource availability, 388-470-0020 and 388-470-0025 Resource exclusions, 388-470-0050 Countable resources, 388-470-0070 Resource rules regarding vehicles, allocating income, 388-450-0106 and 388-450-0116, and 388-450-0050 Community jobs income, and any related rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Statutory authority for the Economic Services Administration (ESA) to adopt, amend, or repeal rules are found in RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department will make additional editorial changes necessary to help these rules meet the standards for regulatory improvement cited in Executive Order 97-02. Additional program changes will be made as needed to administer this program.

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

Process for Developing New Rule: All rules will be reviewed by ESA regulatory improvement team (RIT) to ensure they comply with Executive Order 97-02. The department invites the interested public to review and provide input on the draft language of this rule. After this review all rules will be developed and adopted by the Department of Social and Health Services policy and the Administrative Procedure Act.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cindy Anderson, Program Manager, phone (360) 413-3095, fax (360) 413-3482, e-mail ANDERCL@dshs.wa.gov, WorkFirst Division, Department of Social and Health Services, P.O. Box 45480, Olympia, WA 98504-5480.

January 14, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 99-03-045**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed January 15, 1999, 9:04 a.m.]

Subject of Possible Rule Making: Chapter 16-108 WAC, Washington state egg seals and assessments.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 69.25 RCW, Washington Wholesome Eggs and Egg Products Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department has conducted a review of the above-mentioned rule(s) under the provisions of the Governor's Executive Order 97-02 and has determined the rules are necessary and should be retained. These rules provide the means under which adulterated or unwholesome eggs or egg products are discouraged from being sold in the marketplace. They are necessary to address the issue of funding to operate the shell egg inspection program within the Department of Agriculture. The majority of the shell egg industry is in favor of these rules in that a marketing environment is created where all can compete equally and their reputation is protected.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture has some authority regarding eggs and egg products through the United States Egg Products Inspection Act. Their requirements mainly apply to eggs graded under the voluntary grading program on a fee for service basis. They encourage states to have rules that apply to those egg grading facilities not having grading service. State rules do not duplicate federal rules due to the different circumstances under which they apply. State rules apply to all egg graders selling in intrastate commerce.

Process for Developing New Rule: A rules review was conducted in accordance with the Governor's Executive Order 97-02. Results of this review will be shared with representatives of the rule(s) stakeholders for input. The Egg Inspection Program Advisory Board has participated in the review of chapter 16-108 WAC. They recommended the rules as they currently exist be retained. The department is seeking input on its decision to retain the rule(s) and additionally to propose fee increases within the fiscal growth factor limits for FY 1999 and for FY 2000.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by commenting in writing to Washington State Department of Agriculture, Egg Inspection Program, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1830, fax (360) 902-2087. Written comments should be made by March 20, 1999.

January 15, 1999
Dr. Candace A. Jacobs
Assistant Director

WSR 99-03-066

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

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

Subject of Possible Rule Making: WAC 246-840-125
New rule regarding retired/active status.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.130.250 and 18.79.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Licensees who volunteer

their services for the Red Cross and other nonprofit organizations need a license. By having a retired/active license category they can volunteer their services and pay a reduced fee for their annual license. This would benefit the nurses and the community.

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

Process for Developing New Rule: Public rules writing workshop will be held February 25, 1999, at 5:00 p.m. at Department of Health, 1101 Eastside Street, Olympia, WA 98504. Any person interested in drafting the language to develop this rule is invited and encouraged to attend.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Terry J. West, Program Manager, Department of Health, Nursing Program, P.O. Box 47864, Olympia, WA 98504-7864, phone (360) 236-4712, fax (360) 236-4738.

December 10, 1998
Paula R. Meyer, RN, MSN
Executive Director

WSR 99-03-075

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed January 19, 1999, 3:30 p.m.]

Subject of Possible Rule Making: WAC 388-86-073
Occupational therapy.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.520.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To clarify program requirements to comply with the clear-writing criteria in the Governor's Executive Order 97-02. A new chapter is being established to combine all medical therapy rules, chapter 388-545 WAC will replace WAC 388-86-073.

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

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this WAC. Draft material and information about how to participate are available by contacting the DSHS representative identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ann Myers, Program Assistance and Support Services, Medical Assistance Administration, Olympia, WA 98504-5530, phone (360) 586-2337, fax (360) 753-7315, TTY 1(800) 848-5429, e-mail myersea@dshs.wa.gov.

January 19, 1999
Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 99-03-082

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

[Filed January 20, 1999, 9:08 a.m.]

Subject of Possible Rule Making: Temporary worker housing rules for the cherry harvest.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.54.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The State Board of Health (SBOH) delegated rule-making authority to the Department of Health (DOH) at the January 13, 1999, board meeting. The delegation of rule-making authority specifically directed the department to develop rules for the temporary worker housing - cherry harvest.

These rules will establish health and safety standards for licensed temporary worker housing during the cherry harvest in Eastern Washington.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Labor and Industries (L&I) (WISHA/OSHA), Department of Community, Trade and Economic Development (DCTED), Department of Employment Security (ESD) and the Washington State Board of Health.

DOH will include L&I, DCTED, ESD, and SBOH in developing the rules and in rule development meetings. DOH will also report monthly to the SBOH.

Process for Developing New Rule: The department will hold a public work session with interested parties to finalize rule language. The SBOH provided specific guidelines for the temporary worker housing - cherry harvest rules when they delegated their authority. The rules must follow the principles established in the Department of Health's report to the legislature: Common Sense and Science: New Directions in the Regulation of Temporary Worker Housing, published December 1996.

DOH will mail information packets to all licensees and interested parties during the rule-making process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The department is scheduled to present on the progress of the rule at every SBOH board meeting from February through September. The meeting dates are: February 10, 1999, March 10, 1999, April 14, 1999, May 12, 1999, June 9, 1999, July 14, 1999, August 11, 1999, and September 8, 1999. For SBOH meeting locations and agendas, contact the SBOH at (360) 586-0399.

For information on the public work session, contact Jennell Prentice, Rules Coordinator, Facilities and Services Licensing, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 705-6661, fax (360) 705-6654, e-mail jzp0303@wa.doh.gov.

January 19, 1999
Kris Van Gorkom
Deputy Secretary

WSR 99-03-090

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed January 20, 1999, 10:14 a.m.]

Subject of Possible Rule Making: To amend chapter 16-481 WAC, Grape phylloxera.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 17.24 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: NAFTA and GATT have altered the regulatory parameters for plant disease and insect phytosanitary issues, not only for international trade, but also for interstate and internal quarantines and other regulation. NAPPO (North America Plant Pest Organization), the international organization authorized to define the new standards in this area, has chosen grapevines as its first effort. In order to comply with new internationally mandated standards and to maintain consistency with other states, this rule must be modified. In addition, changes in industry practices, environmental conditions, and legislative mandates (for instance, the regulatory reform statutes) have made other modifications necessary.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: USDA APHIS has federal quarantine authority. WSDA will discuss proposed changes with knowledgeable staff in that agency; however, APHIS regards interstate movement of grape phylloxera as a state regulatory matter and has not chosen to exercise its authority in this area.

Process for Developing New Rule: Washington State Department of Agriculture representatives discuss proposed rule change with affected government agencies and stakeholders and then publish the rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094; or Thomas Wessels, Plant Services Program Manager, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094.

January 20, 1999
Mary A. Martin Toohey
Assistant Director

WSR 99-03-091

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed January 20, 1999, 10:15 a.m.]

Subject of Possible Rule Making: To amend chapter 16-483 WAC, Grape virus quarantine.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 17.24 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: NAFTA and GATT have altered the regulatory parameters for plant disease and insect phytosanitary issues, not only for international trade, but also for interstate and internal quarantines and other regulation. NAPPO (North America Plant Pest Organization), the international organization authorized to define the new standards in this area, has chosen grapevines as its first effort. In order to comply with new internationally mandated standards and to maintain consistency with other states, this rule must be modified. In addition, changes in industry practices, environmental conditions, and legislative mandates (for instance, the regulatory reform statutes) have made other modifications necessary.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: USDA APHIS has federal quarantine authority. WSDA will discuss proposed changes with knowledgeable staff in that agency; however, APHIS regards interstate movement of most of these diseases as a state regulatory matter and has not chosen to exercise its authority in this area.

Process for Developing New Rule: Washington State Department of Agriculture representatives discuss proposed rule change with affected government agencies and stakeholders and then publish the rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094; or Thomas Wessels, Plant Services Program Manager, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094.

January 20, 1999
Mary A. Martin Toohey
Assistant Director

WSR 99-03-092

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed January 20, 1999, 10:16 a.m.]

Subject of Possible Rule Making: To amend chapter 16-470 WAC, Quarantine pests (apple maggot).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 17.24.041.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Updating the current rule would clarify restrictions on movement of fruit and other quarantine provisions. It would also help to maintain consistency with other states' rules and acknowledge changes in industry practices, environmental conditions, and legislative mandates, i.e., the regulatory reform statutes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: USDA APHIS has federal plant pest quarantine author-

ity. However, it regards apple maggot as a state regulatory matter and has not chosen to exercise authority in this area.

Process for Developing New Rule: Washington State Department of Agriculture representatives discuss proposed rule change with affected stakeholders and then publish the rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094; or Linda Polzin, Pest Program Manager, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-2071, fax (360) 902-2094.

January 20, 1999
Mary A. Martin Toohey
Assistant Director

WSR 99-03-093

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed January 20, 1999, 10:18 a.m.]

Subject of Possible Rule Making: To amend chapter 16-322 WAC, Mint rootstocks—Certification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.14 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Changes in industry practices, program needs, environmental conditions, and legislative mandates (for instance, the regulatory reform statutes) have made modifications necessary.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Certification programs are entirely state regulatory matters. Agriculture departments in other states with mint certification programs will be consulted.

Process for Developing New Rule: Washington State Department of Agriculture representatives discuss proposed rule change with the Washington Mint Commission and other affected stakeholders and then publish the rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094; or Thomas Wessels, Plant Services Program Manager, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094.

January 20, 1999
Mary A. Martin Toohey
Assistant Director

WSR 99-03-094**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed January 20, 1999, 10:20 a.m.]

Subject of Possible Rule Making: To amend chapter 16-462 WAC, Grapevines—Registration and certification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.14 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: NAFTA and GATT have altered the regulatory parameters for plant disease and insect phytosanitary issues, not only for international trade, but also for interstate and internal quarantines and certification. NAPPO (North America Plant Pest Organization), the international organization authorized to define the new standards in this area, has chosen grapevines as its first effort. In order to comply with new internationally mandated standards and to maintain consistency with other states, this rule must be modified. In addition, changes in industry practices, environmental conditions, and legislative mandates (for instance, the regulatory reform statutes) have made other modifications necessary.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Certification programs are entirely state regulatory matters. Agriculture departments in other states with grape planting stock certification programs will be consulted.

Process for Developing New Rule: Washington State Department of Agriculture representatives discuss proposed rule change with affected government agencies and stakeholders and then publish the rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094; or Thomas Wessels, Plant Services Program Manager, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094.

January 20, 1999
Mary A. Martin Toohey
Assistant Director

WSR 99-03-095**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed January 20, 1999, 10:21 a.m.]

Subject of Possible Rule Making: To amend chapter 16-401 WAC, Nursery inspection fees for fiscal year 1999, and fiscal year 2000.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.13 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Current nursery inspection

fee income is not adequate to cover program costs. It is necessary to raise fees within the fiscal growth factors of both fiscal year 1999, and 2000. Changes in industry practices, program needs, environmental conditions, and legislative mandates (for instance, the regulatory reform statutes) have also made modifications necessary.

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

Process for Developing New Rule: Washington State Department of Agriculture representatives discuss proposed rule change with affected stakeholders, especially the statutory Nursery Advisory Committee, and then publish the rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094; or Tom Wessels, Plant Services Program Manager, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094.

January 20, 1999
Mary A. Martin Toohey
Assistant Director

WSR 99-03-096**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed January 20, 1999, 10:21 a.m.]

Subject of Possible Rule Making: To amend WAC 16-470-900 through 16-470-920 (Plant pest detection, testing, and inspection fees and documentation) for fiscal year 1999, and fiscal year 2000.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 17.24 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Current plant pest detection testing and inspection fee income is not adequate to cover costs of these activities. It is necessary to raise fees within the fiscal growth factors of both fiscal year 1999 and 2000. Changes in industry practices, program needs, environmental conditions, and legislative mandates (for instance, the regulatory reform statutes) have also made modifications necessary.

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

Process for Developing New Rule: Washington State Department of Agriculture representatives discuss proposed rule change with affected stakeholders and then publish the rule proposal.

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

Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094; or Tom Wessels, Plant Services Program Manager, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094.

January 20, 1999
Mary A. Martin Toohey
Assistant Director

oping this rule. An eighteen-member advisory team will meet monthly through August 1999. Their first meeting occurred December 10, 1998. For information on these meetings or how to comment and participate in the rule development process, contact: Judy Geier, Environmental Specialist, SEA Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-7257, jgei461@ecy.wa.gov or the website at www.wa.gov/ecology under "Shorelands and Wetlands."

January 13, 1999
Gordon White
Program Manager

WSR 99-03-097

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 98-26—Filed January 20, 1999, 10:22 a.m.]

Subject of Possible Rule Making: This rule will outline procedures for the operation, monitoring, and implementation of wetland mitigation banks. The rule will also establish a predictable process for certifying mitigation banks. Among other concepts, the rule will address the definition of service areas, the determination and release of credits, performance standards, and long-term financial assurances.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 90.84 RCW, Wetlands Mitigation Banking, directs the Department of Ecology (ecology) to develop a rule that "... provides a predictable, efficient, regulatory framework, including timely review of mitigation bank proposals."

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The law requires that ecology develop a rule for wetland mitigation banking. The rule will provide a consistent, predictable, and efficient state-wide framework for certifying mitigation banks in Washington state. The rule will assist in ensuring that banks are properly sited, designed, and monitored to provide the most environmental benefit. In addition, the rule provides an additional regulatory tool for compensating unavoidable impacts to wetlands as well as a venue for implementing watershed priorities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: *Federal Guidance for the Use and Operation of Mitigation Banks* was published in the *Federal Register* on November 28, 1995 (FR Vol. 60, No. 228, PP. 58605-58614). This is no federal rule regarding banking. However, this guidance and the federal Clean Water Act gives the United States Army Corps of Engineers a pivotal role in the approval of banks. There are no other state agencies in Washington that regulate wetland mitigation banks. However, the law requires local governments to be signatories on certifications of individual banks. At least one county, King, has published a local [no further information supplied by agency].

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. Ecology is using a collaborative process for devel-

WSR 99-03-099

PREPROPOSAL STATEMENT OF INQUIRY GAMBLING COMMISSION

[Filed January 20, 1999, 11:04 a.m.]

Subject of Possible Rule Making: Bingo games.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The bingo industry has requested this change as a way to stimulate bingo business. This change would amend the restrictions on bingo operators offering gift certificates.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ben Bishop, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; Sherri Winslow, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 301; or Susan Arland, Public Information Officer, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 374.

Meetings at the Ramada Governor House, 621 Capitol Way South, Olympia, WA 98501, (360) 352-7700, on February 11-12, 1999; and at the Cavanaugh's Ridpath Hotel, West 1515 Sprague, Spokane, WA 99204, (509) 838-2711, on March 11-12, 1999; and at The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230, (360) 371-2000, on April 8-9, 1999.

January 20, 1999
Susan Arland
Public Information Officer

WSR 99-03-100

PREPROPOSAL STATEMENT OF INQUIRY GAMBLING COMMISSION

[Filed January 20, 1999, 11:05 a.m.]

Subject of Possible Rule Making: Bingo games.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The bingo industry has requested this change as a way to stimulate bingo business. This amendment would allow bingo operators to distribute coupons for free bingo cards to customers as prizes.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ben Bishop, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; Sherri Winslow, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 301; or Susan Arland, Public Information Officer, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 374.

Meetings at the Ramada Governor House, 621 Capitol Way South, Olympia, WA 98501, (360) 352-7700, on February 11-12, 1999; at the Cavanaugh's Ridpath Hotel, West 1515 Sprague, Spokane, WA 99204, (509) 838-2711, on March 11-12, 1999; and at The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230, (360) 371-2000, on April 8-9, 1999.

January 20, 1999

Susan Arland

Public Information Officer

WSR 99-03-101

PREPROPOSAL STATEMENT OF INQUIRY

GAMBLING COMMISSION

[Filed January 20, 1999, 11:06 a.m.]

Subject of Possible Rule Making: Bingo games.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The bingo industry has requested this changes as a way to stimulate bingo business. This amendment would allow bingo players to accrue points by playing bingo and redeem the points for prizes, such as a trip. Additionally, restrictions on promotional items would be reduced.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ben Bishop, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; Sherri Winslow, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 301; or Susan Arland,

Public Information Officer, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 374.

Meetings at the Ramada Governor House, 621 Capitol Way South, Olympia, WA 98501, (360) 352-7700, on February 11-12, 1999; at the Cavanaugh's Ridpath Hotel, West 1515 Sprague, Spokane, WA 99204, (509) 838-2711, on March 11-12, 1999; and at The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230, (360) 371-2000, on April 8-9, 1999.

January 20, 1999

Susan Arland

Public Information Officer

WSR 99-03-102

PREPROPOSAL STATEMENT OF INQUIRY

GAMBLING COMMISSION

[Filed January 20, 1999, 11:07 a.m.]

Subject of Possible Rule Making: Bingo games.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The bingo industry has requested this change as a way to stimulate bingo business. This amendment would allow bingo operators to offer free games, such as the winners circle and pal games.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ben Bishop, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; Sherri Winslow, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 301; or Susan Arland, Public Information Officer, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 374.

Meetings at the Ramada Governor House, 621 Capitol Way South, Olympia, WA 98501, (360) 352-7700, on February 11-12, 1999; at the Cavanaugh's Ridpath Hotel, West 1515 Sprague, Spokane, WA 99204, (509) 838-2711, on March 11-12, 1999; and at The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230, (360) 371-2000, on April 8-9, 1999.

January 20, 1999

Susan Arland

Public Information Officer

WSR 99-03-104
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed January 20, 1999, 11:23 a.m.]

Subject of Possible Rule Making: Infusion, parenteral, and enteral therapies for Medicaid and medical assistance clients; limitations on those services; and requirements for providers of those services.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Infusion, parenteral, and enteral therapies provide medically necessary nutrition to Medicaid and medical assistance clients who are not able to feed or be fed orally. These rules will describe infusion, parenteral, and enteral benefits; limitations, including authorizations, to avoid medically unnecessary use of these benefits; and requirements placed on providers to ensure appropriate, medically necessary use.

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

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this WAC. Draft material and information about how to participate are available by contacting the DSHS representative identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ann Myers, Program Assistance and Support Services, Medical Assistance Administration, Olympia, WA 98504-5530, phone (360) 586-2337, fax (360) 753-7315, TTY 1 (800) 848-5429, e-mail myersea@dshs.wa.gov.

January 20, 1999

Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

WSR 99-03-105
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Adult Services Administration)

[Filed January 20, 1999, 11:24 a.m.]

Subject of Possible Rule Making: Allowing adult family home providers to offer secure environments for residents with dementia, including offering locked gates, when certain fire safety and program standards are met.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.128.040 and 70.128.007.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In order to support adult family homes to offer safe care to persons with dementia, Aging and Adult Services Administration is initiating a pilot project to allow some adult family homes to have a fence sur-

rounding the home with a gate that is secured under certain circumstances. The secured area is intended to be used only when a variety of other program issues have been demonstrated to be addressed, including adequate staffing, activities, and an environment tailored to the residents. The secured area is intended to protect resident safety and promote privacy and independence, by allowing residents increased freedom of movement.

The homes cannot participate unless all residents give informed consent, and the department certifies that all pilot rules are being followed.

Process for Developing New Rule: Pilot rule making, state fire marshals representing the Washington State Fire Protection Bureau have provided extensive advice and technical assistance throughout the planning for this project. The department has also coordinated extensively with the long term care ombudsman program, and numerous disabilities advocacy and education groups, as well as with adult family home provider groups.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Carole Campbell, Aging and Adult Services Administration, P.O. Box 45600, Olympia, WA 98504-5600, (360) 493-2631, fax (360) 438-7903.

January 19, 1999

Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

WSR 99-03-106
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE

[Filed January 20, 1999, 11:31 a.m.]

Subject of Possible Rule Making: Personal use licenses.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.32.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The license format adopted by the 1998 legislature contains new dealer requirements. Adjustment of dealer fees will be considered.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dave Brittell, Management Services Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2325 by April 26, 1999. Expected proposal filing April 27, 1999.

January 20, 1999

Evan Jacoby
 Rules Coordinator

WSR 99-03-107**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed January 20, 1999, 11:32 a.m.]

Subject of Possible Rule Making: Aquaculture.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Aquaculture crosses food fish/game fish lines and reconciliation is needed.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Agriculture, they will be consulted and involved in the rule development process.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bruce Crawford, Fish Program Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2325 by July 20, 1999. Expected proposal filing July 21, 1999.

January 20, 1999

Evan Jacoby

Rules Coordinator

meet all the requirements of chapter 16-403 WAC, Standards of apples marketed within Washington.

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

Process for Developing New Rule: This is at the request of the Washington State Horticultural Association. The department will be working with the association and other stakeholders and interested parties in the development of this rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Any comments relating to the development of this rule must be received no later than March 5, 1999. Please direct all comments to Jim Quigley, Program Manager, Washington State Department of Agriculture, Fruit and Vegetable Inspection Program, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1833, fax (360) 902-2085.

January 20, 1999

William E. Brookreson

Assistant Director

Agency Operations

WSR 99-03-108**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed January 20, 1999, 11:34 a.m.]

Subject of Possible Rule Making: Require that all Red Delicious and Delicious varieties of apples be certified for quality and condition on a twelve-month basis. Require soluble solids testing for Red Delicious and Delicious varieties of apples be continued until October first of each year and the general release date as established by the Delicious Maturity Committee of the Washington State Horticultural Association will be eliminated. Apples of the Red Delicious and Delicious variety not entering channels of commerce within twenty-one days following the original inspection, as indicated by a state lot number, will require recertification for meeting the minimum firmness requirements prior to entering the channels of commerce.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendments to the existing rules, chapter 16-403 WAC, Standards for apples marketed within Washington and chapter 16-461 WAC, Inspection requirements for fruits and vegetables, will assist in eliminating the lower levels of the Red Delicious and Delicious varieties of apples from entering the market place and will provide the consumer with a higher level of quality and condition (maturity) of Red Delicious and Delicious varieties of apples. Red Delicious and Delicious varieties of apples will



WSR 99-03-001

EXPEDITED REPEAL

STATE BOARD OF EDUCATION

[Filed January 6, 1999, 1:09 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 180-16-221, 180-16-222, 180-16-226, 180-16-231, 180-16-236, and 180-16-238.

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

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

Address Your Objection to: [Larry Davis, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357.]

Reason the Expedited Repeal of the Rule is Appropriate: These rules were being repealed and moved to a new chapter of WAC. When the CR-102 was filed the repealer page was misplaced, but the agency was not aware of this until after the hearing and filing of the CR-103. These rules are now included as part of a new chapter of WAC and need to be repealed from chapter 180-16 WAC.

January 4, 1999
Larry Davis
Executive Director

246-808-320 Privileged communications, 246-808-330 Patient abandonment, 246-808-340 Consultation, 246-808-350 Unethical requests, 246-808-360 Patient welfare, 246-808-370 Patient disclosure, 246-808-380 Degree of skill, 246-808-390 Illegal practitioners, and 246-808-640 Scope of practice—Revocation or suspension of license authorized for practice outside scope.

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

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

Address Your Objection to: Chiropractic Quality Assurance Commission, Connie Glasgow, Program Manager, P.O. Box 47867, Olympia, WA 98504-7867.

Reason the Expedited Repeal of the Rule is Appropriate: WAC 246-808-101, 246-808-301, 246-808-340, 246-808-350, 246-808-360, 246-808-370, 246-808-380, 246-808-390, and 246-808-640 are redundant with chapter 18.25 RCW; and WAC 246-808-320 and 246-808-330 are redundant with chapter 70.02 RCW.

December 21, 1998
Gail Zimmerman
Executive Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 180-16-221 Assignment of classroom teachers within districts.
- WAC 180-16-222 Exceptions to classroom teacher assignment policy.
- WAC 180-16-226 Superintendent of public instruction annual report to state board of education.
- WAC 180-16-231 Assignment of principals and vice-principals within districts.
- WAC 180-16-236 Assignment of educational staff associates.
- WAC 180-16-238 Assignment of persons providing instruction of braille to students.

WSR 99-03-061

EXPEDITED REPEAL

DEPARTMENT OF HEALTH

[Filed January 18, 1999, 2:00 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 246-808-101 Purpose, 246-808-301 Purpose,

EXPEDITED REPEAL



WSR 99-01-170
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed December 23, 1998, 10:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-19-013.

Title of Rule: WAC 388-550-1050 Definitions, 388-550-1200 Limitations on hospital coverage, 388-550-2800 Establishing inpatient payment rates, 388-550-2900 Payment limits—Inpatient hospital services, 388-550-3000 DRG payment system, 388-550-3100 Calculating DRG relative weights, 388-550-3500 Inflation adjustments, 388-550-3700 DRG-outliers and administrative day rates, 388-550-4500 Payment method—RCC, 388-550-4700 Payment—Non-SCA participating hospitals, 388-550-4800 Hospital payment method—State-only programs, and 388-550-6000 Payment—Outpatient hospital services.

Purpose: To rewrite the rule per the Governor's Executive Order 97-02 which mandates readability, clarity, foundation in law, etc.; and to describe new methods of paying hospital providers. One new method is to change the high and low outlier thresholds for diagnosis-related group (DRG) claims. The other new method is to cap dual Medicare/Medicaid hospital payments at Medicaid's maximum.

Statutory Authority for Adoption: RCW 74.08.090; 42 USC 1395x(v); 42 USC 11303; 42 USC 2652; 42 CFR 447.271.

Statute Being Implemented: 42 USC 1395x(v); 42 USC 11303; 42 USC 2652; 42 CFR 447.271.

Summary: As of July 1, 1999, low-cost DRG outliers will be defined as: Allowed charges less than or equal to 10% of the applicable DRG payment or \$450, whichever is greater. As of July 1, 1999, high-cost DRG outliers will be defined as allowed charges of three times the applicable DRG payment or \$33,000, whichever is greater. Effective with the permanent adoption of the rule, the department's maximum Medicaid payment of dual Medicare/Medicaid hospital claims will be Medicaid's maximum.

Reasons Supporting Proposal: Federal legislation allows states to make these changes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Linn, P.O. Box 45510, Olympia, WA 98504-5510, (360) 753-4338.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules describe the methodology the department uses to pay hospitals who provide inpatient and outpatient services to Medicaid and medical services client of the department.

Proposal Changes the Following Existing Rules: As of July 1, 1999, low-cost DRG outliers will be defined as allowed charges less than or equal to 10% of the applicable DRG payment or \$450, whichever is greater. As of July 1,

1999, high-cost DRG outliers will be defined as allowed charges of three times the applicable DRG payment or \$33,000, whichever is greater. Effective with the permanent adoption of the rule, the department's maximum Medicaid payment of dual Medicare/Medicaid hospital claims will be Medicaid's maximum.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small businesses are not affected by these rule changes.

RCW 34.05.328 applies to this rule adoption. The department has prepared a cost-benefit analysis (CBA) regarding these rule changes. A copy of that CBA can be obtained from Larry Linn, Hospital Rates Section, Division of Operation Support Services, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45510, Olympia, WA 98504-5510, phone (360) 753-4338, e-mail linnld@dshs.wa.gov.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on February 23, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by February 13, 1999, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by February 23, 1999.

Date of Intended Adoption: February 24, 1999.

December 22, 1998

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-1050 Definitions. See also chapter 388-500 WAC for other definitions and abbreviations used by the department. Unless otherwise specified, the terms used in this chapter have the following meaning:

"**Accommodation costs**" mean the expenses incurred by a hospital to provide its patients services for which a separate charge is not customarily made, such as, but not limited to, a regular hospital room, special care hospital room, dietary and nursing services, medical and surgical supplies, medical social services, psychiatric social services, and the use of certain hospital equipment and facilities.

"**Acute**" means a ~~((term describing))~~ medical condition of severe intensity with sudden onset.

"**Acute care**" means care provided by an agency for clients who are not medically stable or have not attained a satisfactory level of rehabilitation. These clients require frequent monitoring by a health care professional in order to maintain their health status (WAC 248-27-015).

"**ADATSA/DASA assessment center**" means an agency contracted by the division of alcohol and substance abuse (DASA) to provide chemical dependency assessment for clients and pregnant women in accordance with the alcohol and drug addiction treatment and support act (ADATSA).

Full plans for a continuum of drug and alcohol treatment services for pregnant women are also developed in ADATSA/DASA assessment centers.

"Add-on procedure" means a secondary procedure that is performed in addition to another procedure.

"Administrative day" means a day of a hospital stay in which an acute inpatient level of care is no longer necessary, and an appropriate noninpatient hospital placement is not available.

"Admitting diagnosis" means the diagnosis, coded according to the International Classification of Diseases, 9th Revision, Clinical Modifications (ICD-9-CM), indicating the medical condition which precipitated the client's admission to an inpatient hospital facility.

"Advance directive" means a document, such as a living will, executed by a client, that tells the client's health care providers and others the client's decisions regarding his or her medical care, particularly whether the client wishes to accept or refuse extraordinary measures to prolong his or her life.

"Aggregate capital cost" means the total cost or the sum of all capital costs.

"Aggregate cost" means the total cost or the sum of all constituent costs.

"Aggregate operating cost" means the total cost or the sum of all operating costs.

"Alcohol and drug addiction treatment and support act (ADATSA)" means the law and the state-funded program it established which provides medical services for persons who are incapable of gainful employment due to alcoholism or substance addiction.

"Alcoholism and/or alcohol abuse treatment" means the provision of medical social services to an eligible client designed to mitigate or reverse the effects of alcoholism or alcohol abuse and to reduce or eliminate alcoholism or alcohol abuse behaviors and restore normal social, physical, and psychological functioning. Alcoholism or alcohol abuse treatment is characterized by the provision of a combination of alcohol education sessions, individual therapy, group therapy, and related activities to detoxified alcoholics and their families.

"All-patient grouper (AP-DRG)" means a computer program that determines the diagnosis-related group (DRG) assignments.

"Allowed charges" mean the maximum amount for any procedure that the department will recognize.

"Ancillary hospital costs" mean the expenses incurred by a hospital to provide additional or supporting services to its patients during their hospital stay. ~~((Such services include, but are not limited to, laboratory, radiology, drugs, delivery room (including maternity labor room), and operating room (including anesthesia and postoperative recovery rooms.))~~
See **"ancillary services."**

"Ancillary services" mean additional or supporting services, such as, but not limited to, laboratory, radiology, drugs, delivery room, operating room, postoperative recovery rooms, and other special items and services, provided by a hospital to a patient during his or her hospital stay.

"Approved treatment facility" means a treatment facility, either public or private, profit or nonprofit, approved by DSHS.

"Audit" means an assessment, evaluation, examination, or investigation of a health care provider's accounts, books and records, including:

(1) Medical, financial and billing records pertaining to billed services paid by the department through Medicaid or other state programs, by a person not employed or affiliated with the provider, for the purpose of verifying the service was provided as billed and was allowable under program regulations; and

(2) Financial, statistical and medical records, including mathematical computations and special studies conducted supporting Medicare cost reports HCFA Form 2552, submitted to the department for the purpose of establishing program rates of reimbursement to hospital providers.

"Audit claims sample" means a subset of the universe of paid claims from which the sample is drawn, whether based upon judgmental factors or random selection. The sample may consist of any number of claims in the population up to one hundred percent. See also **"random claims sample"** and **"stratified random sample."**

"Authorization number" means a nine-digit number assigned by MAA that identifies individual requests for approval of services or equipment. The same authorization number is used throughout the history of the request, whether it is approved, pending, or denied.

"Authorization requirement" means MAA's requirement that a provider present proof of medical necessity to MAA, usually before providing certain medical services or equipment to a client. This takes the form of a request for authorization of the service(s) and/or equipment, including a complete, detailed description of the client's diagnosis and/or any disabling conditions, justifying the need for the equipment or the level of service being requested.

"Average hospital rate" means the weighted average of hospital rates in the state of Washington.

"Bad debt" means an operating expense or loss incurred by a hospital because of uncollectible accounts receivables.

~~((**"Base period"** means, for purposes of establishing a provider rate, a specific period or timespan used as a reference point or basis for comparison.~~

~~**"Base period costs"** mean costs incurred in or associated with a specified base period.))~~

"Beneficiary" means a recipient of Social Security benefits, or a person designated by an insuring organization as eligible to receive benefits.

~~((**"Benefit period"** means a "spell of illness" for Medicare payments. For part A coverage, the benefit period begins on the first day a Medicare beneficiary is furnished inpatient hospital or extended care services by a qualified provider, and ends when the beneficiary has been out of the hospital or other covered facility for sixty consecutive days.))~~

"Billed charge" - See **"usual and customary charge."**

"Blended rate" means a mathematically weighted average rate.

"Border area hospital" means a hospital located in an area defined by state law as:

(1) Oregon - Astoria, Hermiston, Hood River, Milton-Freewater, Portland, Rainier, or The Dalles; and

(2) Idaho - Coeur d'Alene, Lewiston, Moscow, Priest River or Sandpoint.

"Bundled services" mean interventions which are incidental to the major procedure and are not separately reimbursable.

"Buy-in premium" means a monthly premium the state pays so a client is enrolled in part A and/or part B Medicare.

"By report" means a method of reimbursement in which MAA determines the amount it will pay for a service that is not included in MAA's published fee schedules by requiring the provider to submit a "report" describing the nature, extent, time, effort and/or equipment necessary to deliver the service.

"Callback" means keeping physician staff on duty beyond their regularly scheduled hours, or having them return to the facility after hours to provide unscheduled services; usually associated with hospital emergency room, surgery, laboratory and radiology services.

"Capital-related costs" mean the component of operating costs related to capital assets, including, but not limited to:

- (1) Net adjusted depreciation expenses;
- (2) Lease and rentals for the use of depreciable assets;
- (3) The costs for betterment and improvements;
- (4) The cost of minor equipment;
- (5) Insurance expenses on depreciable assets;
- (6) Interest expense; and
- (7) Capital-related costs of related organizations that provide services to the hospital.

It excludes capital costs due solely to changes in ownership of the provider's capital assets.

"Case mix complexity" means, from the clinical perspective, the condition of the ((patients)) treated patients and the ((treatment)) difficulty associated with providing care. Administratively, it means the resource intensity demands that patients place on an institution.

"Case mix index" means a measure of the costliness of cases treated by a hospital relative to the cost of the average of all Medicaid hospital cases, using diagnosis-related group weights as a measure of relative cost.

"Charity care" means necessary hospital health care rendered to indigent persons, as defined in this section, to the extent that these persons are unable to pay for the care or to pay the deductibles or coinsurance amounts required by a third-party payer, as determined by the department.

"Chemical dependency" means an alcohol or drug addiction; or dependence on alcohol and one or more other psychoactive chemicals.

"Children's hospital" means a hospital primarily serving children.

~~("Coinsurance" - See WAC 388-500-005-)~~

"Comorbidity" means of, relating to, or caused by a disease other than the principal disease.

"Complication" means a disease or condition occurring subsequent to or concurrent with another condition and aggravating it.

"Comprehensive hospital abstract reporting system (CHARS)" means the department of health's hospital data collection, tracking and reporting system.

"Contract hospital" means a licensed hospital located in a selective contracting area, which is awarded a contract to participate in the department's selective contracting hospital program.

"Contractual adjustment" means the difference between the amount billed at established charges for the services provided and the amount received or due from a third-party payer under a contract agreement. A contractual adjustment is similar to a trade discount.

"Conversion factor" means a hospital-specific dollar amount that reflects the average cost of treating Medicaid clients in a given hospital. See **"cost-based conversion factor (CBCF)"** and **"negotiated conversion factor (NCF)."**

"Cost proxy" means an average ratio of costs to charges for ancillary charges or per diem for accommodation cost centers used to determine a hospital's cost for the services where the hospital has charges for the services has does not report costs in corresponding centers in its Medicare cost report.

"Cost report" means the HCFA Form 2552, Hospital and Hospital Health Care Complex Cost Report, completed and submitted annually by a provider:

- (1) To Medicare intermediaries at the end of a provider's selected fiscal accounting period to establish hospital reimbursable costs for per diem and ancillary services; and
- (2) To Medicaid to establish appropriate DRG and RCC reimbursement.

"Costs" mean MAA-approved operating, medical education, and capital-related costs as reported and identified on the HCFA 2552 form.

"Cost-based conversion factor (CBCF)" means a hospital-specific dollar amount that reflects the average cost of treating Medicaid clients in a given hospital. It is calculated from the hospital's cost report by dividing the hospital's costs for treating Medicaid clients during a base period by the number of Medicaid discharges during that same period and adjusting for the hospital's case mix. See also **"conversion factor"** and **"negotiated conversion factor."**

"County hospital" means a hospital established under the provisions of chapter 36.62 RCW.

"Covered service" means a service that is included in the Medicaid program and is within the scope of the eligible client's medical care program.

"Critical care services" mean services for critically ill or injured patients in a variety of medical emergencies that require the constant attendance of the physician (e.g., cardiac arrest, shock, bleeding, respiratory failure, postoperative complications). For Medicaid reimbursement purposes, critical care services must be provided in a Medicare qualified critical care area, such as the coronary care unit, intensive care unit, respiratory care unit, or the emergency care facility, to qualify for reimbursement as a special care level of service.

"Current procedural terminology (CPT)" means a systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions

performed by physicians; it is published annually by the American Medical Association (AMA).

~~("Customary charge or fee" - See "Allowed charges" and "usual and customary charge.")~~

"**Customary charge payment limit**" means the limit placed on aggregate diagnosis-related group (DRG) payments to a hospital during a given year to assure that DRG payments do not exceed the hospital's charges to the general public for the same services.

"**Day outlier**" means a case that requires MAA to make additional payment to the hospital provider but which does not qualify as a high-cost outlier. See "**day outlier payment**" and "**day outlier threshold.**"

"**Day outlier payment**" means the additional amount paid to a disproportionate share hospital for a client five years old or younger who has a prolonged inpatient stay which exceeds the day outlier threshold but whose charges for care fall short of the high cost outlier threshold. The amount is determined by multiplying the number of days in excess of the day outlier threshold and the administrative day rate.

"**Day outlier threshold**" means the average number of days a client stays in the hospital for an applicable DRG before being discharged, plus twenty days.

"**Deductible**" means the amount a beneficiary is responsible for, before Medicare starts paying; or the initial specific dollar amount for which the applicant or client is responsible.

"**Detoxification**" means treatment provided to persons who are recovering from the effects of acute or chronic intoxication or withdrawal from alcohol or other drugs.

"**Diabetic education program**" means a comprehensive, multidisciplinary program of instruction offered by an MAA-approved facility to diabetic clients on dealing with diabetes, including instruction on nutrition, foot care, medication and insulin administration, skin care, glucose monitoring, and recognition of signs/symptoms of diabetes with appropriate treatment of problems or complications.

"**Diagnosis code**" means a set of alphabetic, numeric, or alpha-numeric characters assigned by the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM), as a shorthand symbol to represent the nature of a disease.

"**Diagnosis-related group (DRG)**" means a classification system which categorizes hospital patients into clinically coherent and homogenous groups with respect to resource use, i.e., similar treatments and statistically similar lengths of stay for patients with related medical conditions. Classification of patients is based on the International Classification of Diseases, the presence of a surgical procedure, patient age, presence or absence of significant co-morbidities or complications, and other relevant criteria.

"**Direct medical education costs**" means the direct costs of providing an approved medical residency program as recognized by Medicare.

"**Discharging hospital**" means the institution releasing a client from the acute care hospital setting.

"**Disproportionate share payment**" means additional payment(s) made by the department to a hospital which serves a disproportionate number of Medicaid and other low-income clients and which qualifies for one or more of the dis-

proportionate share hospital programs identified in the state plan.

"**Disproportionate share program**" means a program that provides additional payments to hospitals which serve a disproportionate number of Medicaid and other low-income clients.

"**Dispute conference**" means a meeting for deliberation during a provider administrative appeal.

(1) At the first level of appeal it is usually a meeting between auditors and the audited provider and/or staff to resolve disputed audit findings, clarify interpretation of regulations and policies, provide additional supporting information and/or documentation.

(2) At the second level of appeal the dispute conference is a more formal hearing, held by the office of contracts and asset management which issues a decision articulating the department's final position on the contested issue(s).

(3) See WAC ~~((388-81-042))~~ 388-502-0230.

"**Distinct unit**" means a Medicare-certified distinct area for rehabilitation services within a general acute care hospital or a department-designated unit in a children's hospital.

"**DRG**" - See "**diagnosis-related group.**"

"**DRG-exempt services**" mean services which are paid for through other methodologies than those using cost-based or negotiated conversion factors.

"**DRG payment**" means the payment made by MAA for a client's inpatient hospital stay; it is calculated by multiplying the hospital-specific conversion factor by the DRG relative weight for the client's medical diagnosis.

"**DRG relative weight**" means the average cost of a certain DRG divided by the average cost for all cases in the entire data base for all DRGs, expressed in comparison to a designated standard cost.

"**Drug addiction and/or drug abuse treatment**" means the provision of medical and rehabilitative social services to an eligible client designed to mitigate or reverse the effects of drug addiction or drug abuse and to reduce or eliminate drug addiction or drug abuse behaviors and restore normal physical and psychological functioning. Drug addiction or drug abuse treatment is characterized by the provision of a combination of drug and alcohol education sessions, individual therapy, group therapy and related activities to detoxified addicts and their families.

"**Elective procedure or surgery**" means a nonemergent procedure or surgery that can be scheduled at convenience.

~~("Emergency medical condition" - See WAC 388-500-0005, Medical definitions.)~~

~~"Emergency medical expense requirement (EMER)" - See WAC 388-500-0005, Medical definitions.)~~

"**Emergency room**" or "**emergency facility**" means an organized, distinct hospital-based facility available twenty-four hours a day for the provision of unscheduled episodic services to patients who present for immediate medical attention, and capable of providing emergency services including trauma.

"**Emergency services**" mean medical services, including maternity services, required by and provided to a patient after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including

severe pain) that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part. Inpatient maternity services are treated as emergency services.

"Equivalency factor" means a conversion factor used, in conjunction with two other factors (cost-based conversion factor and the ratable factor), to determine the level of state-only program payment.

"Exempt hospital" means a hospital that is either not located in a selective contracting area or is exempted by the department and is reimbursed for services to MAA clients through methodologies other than those using cost-based or negotiated conversion factors.

"Experimental treatment" means a course of treatment or procedure that:

(1) Is not generally accepted by the medical profession as effective and proven;

(2) Is not recognized by professional medical organizations as conforming to accepted medical practice;

(3) Has not been approved by the federal Food and Drug Administration (FDA) or other requisite government body;

(4) Is still in clinical trials, or has been judged to need further study;

(5) Is covered by the federal law requiring provider institutional review of patient consent forms, and such review did not occur; or

(6) Is rarely used, novel, or relatively unknown, and lacks authoritative evidence of safety and effectiveness.

"Facility triage fee" means the amount the medical assistance administration will pay a hospital for a medical evaluation or medical screening examination, performed in the hospital's emergency department, of a nonemergent condition of a *healthy options* client covered under the primary care case management (PCCM) program. This amount corresponds to the professional care level ((+) **A** or level ((2)) **B** service.

"Fiscal intermediary" means Medicare's designated fiscal intermediary for a region and/or category of service.

"Fixed per diem rate" means a contracted nonnegotiated daily amount, used to determine payment to a hospital for specific services.

"Formula price" means the hospital's payment rate, which is the product of the hospital-specific conversion factor multiplied by the DRG weight for the given hospitalization.

"Global surgery days" mean the number of preoperative and follow-up days that are included in the reimbursement to the physician for the major surgical procedure.

"Graduate medical education costs" mean the direct and indirect costs of providing medical education in teaching hospitals.

"Grouper" - See **"all-patient grouper (AP-DRG)."**

"HCFA 2552" - See **"cost report."**

"Health care team" means a team of professionals and/or paraprofessionals involved in the care of a client.

"High-cost outlier" means a case with extraordinarily high costs when compared to other cases in the same DRG, in

which the allowed charges prior to July 1, 1999, exceed three times the applicable DRG payment or twenty-eight thousand dollars, whichever is greater. On and after July 1, 1999, to qualify as a high-cost outlier, the allowed charges must exceed three times the applicable DRG payment or thirty-three thousand dollars, whichever is greater.

"Hospice" means a medically-directed, interdisciplinary program of palliative services which is provided under arrangement with a Title XVIII Washington state-licensed and Title XVIII-certified Washington state hospice for terminally ill clients and the clients' families.

"Hospital" means an entity which is licensed as an acute care hospital in accordance with applicable state laws and regulations, and which is certified under Title XVIII of the federal Social Security Act.

"Hospital admission" means admission as an inpatient to a hospital, for a stay of twenty-four hours or longer.

"Hospital base period" means, for purposes of establishing a provider rate, a specific period or timespan used as a reference point or basis for comparison.

"Hospital base period costs" mean costs incurred in or associated with a specified base period.

"Hospital cost report" - See **"cost report."**

"Hospital facility fee" - See **"facility triage fee."**

"Hospital market basket index" means a measure, expressed as a percentage, of the annual inflationary costs for hospital services, as measured by Data Resources, Inc., (DRI).

"Hospital peer group" means the peer group categories adopted by the former Washington state hospital commission for rate-setting purposes:

(1) Group A - rural hospitals paid under a ratio-of-costs-to-charges (RCC) methodology;

(2) Group B - urban hospitals without medical education programs;

(3) Group C - urban hospitals with medical education programs; and

(4) Group D - specialty hospitals and/or hospitals not easily assignable to the other three peer groups.

"Indigent patient" means a patient who has exhausted any third-party sources, including Medicare and Medicaid, and whose income is equal to or below two hundred percent of the federal poverty standards (adjusted for family size), or is otherwise not sufficient to enable the individual to pay for his or her care, or to pay deductibles or coinsurance amounts required by a third-party payor.

"Indirect medical education costs" means the indirect costs of providing an approved medical residency program as recognized by Medicare.

"Inflation adjustment" means, for cost inflation, the hospital inflation factor determined by Data Resources, Inc., (DRI) and published in the DRI/McGraw-Hill Report. See also **"hospital market basket index."** For charge inflation, it means the inflation factor determined by comparing average discharge charges for the industry from one year to the next, as found in the comprehensive hospital abstract reporting system (CHARS) standard reports three and four.

"Inpatient hospital" means a hospital authorized by the department of health to provide inpatient services.

"Inpatient services" means all services provided directly or indirectly by the hospital to a patient subsequent to admission and prior to discharge, and includes, but is not limited to, the following services: Bed and board; medical, nursing, surgical, pharmacy and dietary services; maternity services; psychiatric services; all diagnostic and therapeutic services required by the patient; the technical and/or professional components of certain services; use of hospital facilities, medical social services furnished by the hospital, and such drugs, supplies, appliances and equipment as required by the patient; transportation services subsequent to admission and prior to discharge; and services provided by the hospital within twenty-four hours of the patient's admission as an inpatient.

~~("Institution" - See WAC 388-500-0005, Medical definitions-)~~

"Interdisciplinary group (IDG)" means the team, including a physician, a registered nurse, a social worker, and a pastoral or other counselor, which is primarily responsible for the provision or supervision of care and services for a Medicaid client.

"Intermediary" - See **"fiscal intermediary."**

"International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) Edition" means the systematic listing that transforms verbal descriptions of diseases, injuries, conditions and procedures into numerical designations (coding).

"Intervention" means any medical or dental service provided to a client that modifies the medical or dental outcome for that client.

"Length of stay (LOS)" means the number of days of inpatient hospitalization. The phrase more commonly means the average length of hospital stay for patients based on diagnosis and age, as determined by the Commission of Professional and Hospital Activities and published in a book entitled *Length of Stay by Diagnosis, Western Region*. See also **"professional activity study (PAS)."**

"Length of stay extension request" means a request from a hospital provider for MAA to approve a client's hospital stay exceeding the average length of stay for the client's diagnosis and age.

"Lifetime hospitalization reserve" means, under the Medicare Part A benefit, the nonrenewable sixty hospital days that a beneficiary is entitled to use during his or her lifetime for hospital stays extending beyond ninety days per benefit period. See also **"reserve days."**

"Low-cost outlier" means a case with extraordinarily low costs when compared to other cases in the same DRG, in which the allowed charges for the case prior to July 1, 1999, is less than or equal to ten percent of the applicable DRG payment or four hundred dollars, whichever is greater. On and after July 1, 1999, to qualify as a low-cost outlier, the allowed charges must be less than or equal to ten percent of the applicable DRG payment or four hundred and fifty dollars, whichever is greater. Reimbursement in such cases is determined by multiplying the case's allowed charges by the hospital's RCC ratio.

"Low income utilization rate" means a formula represented as $(A/B)+(C/D)$ in which:

(1) The numerator A is the hospital's total patient services revenue under the state plan, plus the amount of cash subsidies for patient services received directly from state and local governments in a period;

(2) The denominator B is the hospital's total patient services revenue (including the amount of such cash subsidies) in the same period as the numerator;

(3) The numerator C is the hospital's total inpatient service charge attributable to charity care in a period, less the portion of cash subsidies described in (1) of this definition in the period reasonably attributable to inpatient hospital services. The amount shall not include contractual allowances and discounts (other than for indigent patients not eligible for medical assistance under the state plan); and

(4) The denominator D is the hospital's total charge for inpatient hospital services in the same period as the numerator.

"Major diagnostic category (MDC)" means one of the twenty-five mutually exclusive groupings of principal diagnosis areas in the DRG system. The diagnoses in each MDC correspond to a single major organ system or etiology and, in general, are associated with a particular medical specialty.

"Market basket index" - See **"hospital market basket index."**

"Medicaid cost proxy" means a figure developed to approximate or represent a missing cost figure.

"Medicaid inpatient utilization rate" means a formula represented as X/Y in which:

(1) The numerator X is the hospital's number of inpatient days attributable to patients who (for such days) were eligible for medical assistance under the state plan in a period.

(2) The denominator Y is the hospital's total number of inpatient days in the same period as the numerator's. Inpatient day includes each day in which an individual (including a newborn) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

~~("Medical care services" - See WAC 388-500-0005, Medical definitions-)~~

"Medical assistance program" means Medicaid and medical care services.

"Medical education costs" mean the expenses incurred by a hospital to operate and maintain a formally organized graduate medical education program.

"Medical screening evaluation" means the service(s) provided by a physician or other practitioner to determine whether an emergent medical condition exists. See also **"facility triage fee."**

"Medical stabilization" means a return to a state of constant and steady function. It is commonly used to mean the client is adequately supported to prevent further deterioration.

~~("Medically indigent (MI)" - See WAC 388-500-0005, Medical definitions-)~~

"Medically indigent person" means a person certified by the department of social and health services as eligible for the limited casualty program-medically indigent (LCP-MI) program. See also **"indigent patient."**

"Medicare cost report" means the annual cost data reported by a hospital to Medicare on the HCFA form 2552.

"Medicare crossover" means a claim involving a client who is eligible for both Medicare benefits and ((Medical Assistance)) Medicaid.

"Medicare fee schedule (MFS)" means the official HCFA publication of Medicare policies and relative value units for the resource based relative value scale (RBRVS) reimbursement program.

"Medicare Part A" means that part of the Medicare program that helps pay for inpatient hospital services, which may include, but are not limited to:

- (1) A semi-private room;
- (2) Meals;
- (3) Regular nursing services;
- (4) Operating room;
- (5) Special care units;
- (6) Drugs and medical supplies;
- (7) Laboratory services;
- (8) X-ray and other imaging services; and
- (9) Rehabilitation services.

Medicare hospital insurance also helps pay for post-hospital skilled nursing facility care, some specified home health care, and hospice care for certain terminally ill beneficiaries.

"Medicare part B" means that part of the Medicare program that helps pay for, but is not limited to:

- (1) Physician services;
- (2) Outpatient hospital services;
- (3) Diagnostic tests and imaging services;
- (4) Outpatient physical therapy;
- (5) Speech pathology services;
- (6) Medical equipment and supplies;
- (7) Ambulance;
- (8) Mental health services; and
- (9) Home health services.

"Medicare buy-in premium" - See **"buy-in premium."**

"Medicare payment principles" mean the rules published in the federal register regarding reimbursement for services provided to Medicare clients.

"Mentally incompetent" means a client who has been declared mentally incompetent by a federal, state, or local court of competent jurisdiction for any purpose, unless the client has been declared competent for purposes which include the ability to consent to sterilization.

"Multiple occupancy rate" means the rate customarily charged for a hospital room with two or more patient beds.

"Negotiated conversion factor (NCF)" means a negotiated hospital-specific dollar amount which is used in lieu of the cost-based conversion factor as the multiplier for the applicable DRG weight to determine the DRG payment for a selective contracting program hospital. See also **"conversion factor"** and **"cost-based conversion factor."**

"Nonallowed service or charge" means a service or charge that cannot be billed to the department or client.

"Noncontract hospital" means a licensed hospital located in a selective contracting area (SCA) but which does not have a contract to participate in the selective contracting hospital program.

"Noncovered service or charge" means a service or charge that is not covered by medical assistance, including, but not limited to, such services or charges as a private room, circumcision, and video recording of the procedure.

"Nonemergent hospital admission" means any inpatient hospitalization of a client who does not have an emergent condition, as defined in WAC 388-500-0005, Emergency services.

"Nonparticipating hospital" means a noncontract hospital, as defined in this section.

"Operating costs" means all expenses incurred in providing accommodation and ancillary services, excluding capital and medical education costs.

"Orthotic device" means a fitted surgical apparatus designed to activate or supplement a weakened or atrophied limb or bodily function.

"Out-of-state hospital" means any hospital located outside the state of Washington or outside the designated border areas in Oregon and Idaho.

"Outlier set-aside factor" means the amount by which a hospital's cost-based conversion factor is reduced for payments of high cost outlier cases.

"Outlier set-aside pool" means the total amount of payments for high cost outliers which are funded annually based on payments for high cost outliers during the year.

"Outliers" mean cases with extraordinarily high or low costs when compared to other cases in the same DRG.

"Outpatient" means a client who is receiving medical services in other than an inpatient hospital setting.

"Outpatient care" means medical care provided ((in)) other than ((an)) inpatient services in a hospital setting ((; such as in a hospital outpatient or emergency department, a physician's office, the patient's own home, or a nursing facility)).

"Outpatient hospital" means a hospital authorized by the department of health to provide outpatient services.

"Outpatient stay" means a hospital stay of less than or approximating twenty-four hours, except that cases involving the death of a client, delivery or initial care of a newborn, or transfer to another acute care facility are not deemed outpatient stays.

"Pain treatment facility" means an MAA-approved inpatient facility for pain management, in which a multidisciplinary approach is used to teach clients various techniques to live with chronic pain.

"Participating hospital" means a licensed hospital that accepts MAA clients.

"PAS length of stay (LOS)" means the average length of hospital stay for patients based on diagnosis and age, as determined by the Commission of Professional and Hospital Activities and published in a book entitled *Length of Stay by Diagnosis, Western Region*. See also **"professional activity study (PAS)"** and **"length of stay."**

"Patient consent" means the informed consent of the client and/or the client's guardian to the procedure(s) to be performed upon or the treatment provided to the client, evidenced by the client's or guardian's signature on a consent form.

"Peer group" - See **"hospital peer group."**

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"Peer group cap" means the reimbursement limit set for hospital peer groups B and C, established at the seventieth percentile of all hospitals within the same peer group for aggregate operating, capital, and direct medical education costs.

"Per diem charge" means the daily charge per client that a facility may bill or is allowed to receive as payment for its services.

"Personal comfort items" mean items and services which do not contribute meaningfully to the treatment of an illness or injury or the functioning of a malformed body member.

"Physical medicine and rehabilitation (PM&R)" means a comprehensive inpatient rehabilitative program coordinated by a multidisciplinary team at an MAA-approved rehabilitation facility. The program provides twenty-four-hour specialized nursing services and an intense level of therapy for a diagnostic category for which the client shows significant potential functional improvement.

"Physician standby" means physician attendance without direct face-to-face patient contact and does not involve provision of care or services.

"Physician's current procedural terminology (CPT)" - See "CPT."

"Plan of treatment" or **"plan of care"** means the written plan of care for a patient which includes, but is not limited to, the physician's order for treatment and visits by the disciplines involved, the certification period, medications, and rationale indicating need for services.

"Pregnant and postpartum women (PPW)" mean eligible female clients who are pregnant or within the first one hundred sixty days following delivery.

"Principal diagnosis" means the medical condition determined after study of the patient's medical records to be the principal cause of the patient's hospital stay.

"Principal procedure" means a procedure performed for definitive treatment rather than diagnostic or exploratory purposes, or because it was necessary due to a complication.

"Private room rate" means the rate customarily charged by a hospital for a one-bed room.

"Professional activity study (PAS)" means the compilation of inpatient hospital data by diagnosis and age, conducted by the Commission of Professional and Hospital Activities, which resulted in the determination of an average length of stay for patients. The data are published in a book entitled *Length of Stay by Diagnosis, Western Region*.

"Professional component" means the part of a procedure or service that relies on the physician's professional skill or training, or the part of a reimbursement that recognizes the physician's cognitive skill.

"Prognosis" means the probable outcome of a patient's illness, including the likelihood of improvement or deterioration in the severity of the illness, the likelihood for recurrence, and the patient's probable life span as a result of the illness.

"Prolonged service" means direct face-to-face patient services provided by a physician, either in the inpatient or outpatient setting, which involve time beyond what is usual for such services.

"Prospective payment system (PPS)" means a system that sets payment rates for a pre-determined period for defined services, before the services are provided. The payment rates are based on economic forecasts and the projected cost of services for the pre-determined period.

("Prosthetic device" - See WAC 388-500-0005, Medical definitions.)

"Psychiatric hospitals" mean designated psychiatric facilities, state psychiatric hospitals, designated distinct part pediatric psychiatric units, and Medicare-certified distinct part psychiatric units in acute care hospitals.

"Public hospital district" means a hospital district established under chapter 70.44 RCW.

"Random claims sample" means a sample in which all of the items are selected randomly, using a random number table or computer program, based on a scientific method of assuring that each item has an equal chance of being included in the sample. See also **"audit claims sample"** and **"stratified random sample."**

"Ratable" means a hospital-specific adjustment factor applied to the cost-based conversion factor (CBCF) to determine state-only program payment rates to hospitals.

"Ratio of costs to charges (RCC)" means the methodology used to pay hospitals for services exempt from the DRG payment method. It also refers to the factor applied to a hospital's allowed charges for medically necessary services to determine payment to the hospital for these DRG-exempt services.

"Readmission" means the situation in which a client who was admitted as an inpatient and discharged from the hospital is back as an inpatient within seven days as a result of one or more of the following: A new flair of illness, complication(s) from the first admission, a therapeutic admission following a diagnostic admission, a planned readmission following discharge, or a premature hospital discharge.

"Rebasing" means the process of recalculating the hospital cost-based conversion factors using more current data.

"Recalibration" means the process of recalculating DRG relative weights using more current data.

"Regional support network (RSN)" means a county authority or group of county authorities recognized and certified by the department, that contract with the department per chapters 38.52, 71.05, 71.24, 71.34, and 74.09 RCW and chapters 275-54, 275-55, and 275-57 WAC.

"Rehabilitation units" mean specifically identified rehabilitation hospitals and designated rehabilitation units of general hospitals that meet Medicare criteria for distinct part rehabilitation units.

"Relative weights" - See **"DRG relative weights."**

"Remote hospitals" mean hospitals located outside selective contracting areas (SCAs), or which:

- (1) Are more than ten miles from the nearest contract hospital in the SCA; and
- (2) Have fewer than seventy five beds; and
- (3) Have fewer than five hundred Medicaid admissions in a two-year period.

"Reserve days" mean the days beyond the ninetieth day of hospitalization of a Medicare patient for a benefit period or spell of illness. See also **"lifetime hospitalization reserve."**

"Retrospective payment system" means a system that sets payment rates for defined services according to historic costs. The payment rates reflect economic conditions experienced in the past.

"Revenue code" means a nationally-used three-digit coding system for billing inpatient and outpatient hospital services, home health services, and hospice services.

"Room and board" means services provided in a nursing facility, including:

- (1) Assistance in the activities of daily living.
- (2) Socialization activities.
- (3) Administration of medication.
- (4) Maintenance of the resident's room.
- (5) Supervision and assistance in the use of durable medical equipment and prescribed therapies.

See **"accommodation costs"** for services included in the hospital room and board category.

"Rural health clinic" means a clinic that is located in a rural area designated as a shortage area, and is not a rehabilitation agency or a facility primarily for the care and treatment of mental diseases.

"Rural hospital" means a rural health care facility capable of providing or assuring availability of health services in a rural area.

"Secondary diagnosis" means a diagnosis other than the principal diagnosis for which an inpatient is admitted to a hospital.

"Selective contracting area (SCA)" means an area in which hospitals participate in competitive bidding for hospital contracts. The boundaries of an SCA are based on historical patterns of hospital use by Medicaid patients.

"Selective hospital contracting program" or **"selective contracting"** means a competitive bidding program for hospitals within a specified geographic area to provide inpatient hospital services to medical assistance clients.

"Semi-private room rate" means a rate customarily charged for a hospital room with two to four beds; this charge is generally lower than a private room rate and higher than a ward room. See also **"multiple occupancy rate."**

"Short stay" means a hospital stay of less than or approximating twenty-four hours where an inpatient admission was not appropriate.

"Special care unit" means a Medicare-certified hospital unit where intensive care, coronary care, psychiatric intensive care, burn treatment or other specialized care is provided.

"Specialty hospitals" mean children's hospitals, psychiatric hospitals, cancer research centers or other hospitals which specialize in treating a particular group of clients or diseases.

"Spendedown" means the amount of excess income MAA has determined that a client has available to meet his or her medical expenses. The client becomes eligible for Medicaid coverage only after he or she meets the spenddown requirement.

"Stat laboratory charges" mean the charges by a laboratory for performing a test or tests immediately. "Stat." is the abbreviation for the Latin word "statim" meaning immediately.

"State plan" means the plan filed by the department with the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHHS), outlining how the state will administer the hospital program.

"Stratified random sample" means a sample consisting of claims drawn randomly, using statistical formulas, from each stratum of a universe of paid claims stratified according to the dollar value of the claims. See also **"audit claims sample"** and **"random claims sample."**

"Subacute care" means care to a patient which is less intrusive than that given at an acute care hospital. Skilled nursing, nursing care facilities and other facilities provide subacute care services.

"Surgery"((-)) means the medical diagnosis and treatment of injury, deformity or disease by manual and instrumental operations. For reimbursement purposes, surgical procedures are those designated in CPT as procedure codes 10000 to 69999.

"Swing-bed days" means a bed day on which an inpatient is receiving skilled nursing services in a swing bed at the hospital's census hour. The hospital bed must be certified by the health care financing administration for both acute care and skilled nursing services.

"Teaching hospital" means, for purposes of the teaching hospital assistance program disproportionate share hospital (THAPDSH), the University of Washington medical center and harborview hospital.

"Technical component" means the part of a procedure or service that relates to the equipment set-up and technician's time, or the part of a reimbursement that recognizes the equipment cost and technician time.

"Tertiary care hospital" means a specialty care hospital providing highly specialized services to clients with more complex medical needs than acute care services.

"Total patient days" means all patient days in a hospital for a given reporting period, excluding days for skilled nursing, nursing care, and observation days.

"Transfer" means to move a client from one acute care facility to another.

"Transferring hospital" means the hospital transferring a client to another acute care facility.

"Trauma care facility" means a facility certified by the department of health as a level I, II or III facility.

"UB-92" means the uniform billing document intended for use nationally by hospitals, hospital-based skilled nursing facilities, home health, and hospice agencies in billing third party payers for services provided to clients.

"Unbundled services" mean services which are excluded from the DRG payment to a hospital, including but not limited to, physician professional services and certain nursing services.

"Uncompensated care" - See **"charity care."**

"Uniform cost reporting requirements" means a standard accounting and reporting format as defined by Medicare.

"Uninsured indigent patient" means an individual who receives hospital inpatient and/or outpatient services and who cannot meet the cost of services provided because the

individual has no or insufficient health insurance or other resources to cover the cost.

"Usual and customary charge (UCC)" means the charge customarily made to the general public for a procedure or service, or the rate charged other contractors for the service if the general public is not served.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-1200 Limitations on hospital coverage. Hospital coverage under the medical assistance fee for service program is limited for certain eligible clients (~~(including:)~~). This coverage includes, but is not limited to (~~:~~) the following:

(1) Medical care clients enrolled with the department's (~~managed care~~) Healthy Options carriers (~~as follows:~~

(~~a~~) ~~Comprehensive risk contracts~~) are subject to (~~their~~) the respective (~~carriers'~~) carrier's policies and procedures (~~regarding~~) for coverage of hospital services;

(~~b~~) (2) Medical care clients covered by primary care case management (~~contracts~~) are subject to the clients' primary care physicians' approval for hospital services;

(~~c~~) (3) For emergency care exemptions for clients described in subsection (2) and (3) of this section, see WAC 388-538-100.

(~~d~~) (~~The department shall limit~~) (4) Coverage for (~~clients eligible for the~~) medically indigent (MI) (~~program~~) clients is limited to emergent hospital services, subject to the conditions and limitations of WAC 388-521-2140, (~~WAC~~) 388-529-2950, and this chapter (~~The department shall not cover~~);

(~~a~~) Out-of-state care, hospital or other medical (~~care~~), is not covered for clients under the MI program; and

(~~b~~) Border areas are considered in-state.

(~~c~~) (~~The department shall not cover~~) (5) Out-of-state medical care is not covered for clients under the medical care services program.

(~~d~~) (6) See WAC 388-550-1100(3) for chemical-dependent pregnant clients.

(~~e~~) (~~The department shall limit care in a state mental institution or an approved psychiatric facility to~~) (7) Only Medicaid categorically needy and medically needy clients under twenty-one years of age, or sixty-five years of age or

Method

Negotiated conversion factor

Cost-based conversion factor

Ratio of costs-to-charges

Fixed per diem rate

Used by

Hospitals participating in the federally waived Medicaid hospital selective contracting program (DRG method)

Hospitals not participating in or exempt from the Medicaid hospital selective contracting program (DRG method)

Hospitals and services exempt from DRG payment methods

Physical Medicine and Rehabilitation (PM&R) Level B contracted facilities

(2) (~~As required by 42 CFR § 447.271, the department's~~) MAA's total annual aggregate Medicaid payments to each hospital for inpatient hospital services provided to Medicaid clients (~~shall~~) must not exceed the hospital's cus-

older may receive care in a state mental institution or approved psychiatric facility.

(~~(6)~~) (8)(a) (~~The department shall pay~~) For clients eligible for both Medicare and Medicaid (~~only for their deductibles and coinsurance for~~) hospitalization, MAA pays deductibles and coinsurance, unless the client has exhausted his or her Medicare part A benefits.

(i) MAA payment is limited in amount so that when added to the Medicare payment, the total amount is no more than what the department pays for the same service when provided to a Medicaid eligible, non-Medicare client.

(ii) Providers must accept the total Medicare/Medicaid amount as payment in full.

(iii) Beneficiaries are not liable for any additional charges billed by providers or by a managed care entity.

(iv) Providers or managed care entities that charge beneficiaries excess amounts are subject to sanctions.

(b) If such benefits are exhausted, the department (~~shall~~) pays for hospitalization for such clients subject to MAA rules.

NEW SECTION

WAC 388-550-2431 Hospice services—Inpatient payments. See chapter 388-551 WAC, Alternatives to hospital services, subchapter I—Hospice services.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-2800 Establishing inpatient payment rates. (1) MAA pays hospitals for inpatient hospital services (~~shall be reimbursed~~) using the (~~methodologies~~) rate setting methods identified (~~by~~) in the (~~department in its~~) department's approved state plan (~~In determining a hospital's basic payment rate, the department shall use either:~~

(a) A negotiated conversion factor, for hospitals participating in the federally waived Medicaid hospital selective contracting program;

(b) A cost-based conversion factor, for hospitals not located in selective contracting areas and for hospitals and/or services exempt from selective contracting; or

(c) The ratio of cost to charge, for hospitals and services exempt from conversion factor-based payment methods, as described in WAC 388-550-4200 and WAC 388-550-4300;) that includes:

tomary charges to the general public for the services (42 CFR § 447.271). (~~The department~~) MAA will recoup amounts of total annual aggregate Medicaid payments in excess of such charges.

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(3) ~~((The department's))~~ MAA's annual aggregate payments for inpatient hospital services, including annual aggregate payments to state-operated hospitals, ~~((shall))~~ must not exceed estimated amounts that ((can reasonably be estimated)) would have been paid under the Medicare payment principles.

(4) ~~((Reimbursement to a hospital shall not increase by more than))~~ When hospital ownership changes, MAA's payment must not exceed the amount allowed under 42 U.S.C. Section 1385x (v)(1)(O) ~~((as a result of a change of ownership))~~.

(5) Hospitals participating in the medical assistance program ~~((shall))~~ must annually submit ~~((annually))~~ to the department:

(a) A copy of ~~((their))~~ the hospital's HCFA 2552 uniform cost report; and

(b) A disproportionate share hospital application ~~((with the department. Participating providers shall permit the department to conduct periodic audits of their financial and statistical records))~~.

(6) ~~((The))~~ Reports referred to in subsection (5) of this section ~~((shall))~~ must be completed ~~((in accordance with))~~ according to:

(a) Medicare's cost reporting requirements~~(:);~~

(b) The provisions of this chapter~~(:);~~ and ~~((such))~~

(c) Instructions ~~((as may be))~~ issued by ~~((the department from time to time))~~ MAA.

(7) Unless federally or state-regulated ~~((or instructed by the department))~~, providers ~~((shall))~~ must follow generally accepted accounting principles.

(8) Participating providers must permit MAA to conduct periodic audits of their financial and statistical records.

(9) Payments for trauma services may be enhanced per WAC 248-976-935.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-2900 Payment limits—Inpatient hospital services. (1) The department ~~((shall))~~ pays covered inpatient hospital services only to:

(a) General hospitals that meet the definition in RCW 70.41.020;

(b) Inpatient psychiatric facilities and alcohol or drug treatment centers;

(i) Approved by the department; and

(ii) Not paid directly through the regional support networks.

(c) Out-of-state hospital providers, subject to conditions specified in WAC 388-550-6700.

(2) ~~((The department shall))~~ MAA does not pay for hospital care and/or services provided to a client enrolled with a ~~((department))~~ MAA-contracted managed care carrier~~(; unless the medical assistance administration~~(;))~~. An exception is when~~ MAA~~(;))~~ specifically authorized the provision of and payment for a service not covered by the health carrier's capitation contract ~~((with the department))~~ but covered under the client's medical assistance program.

(3) ~~((The department shall))~~ MAA does not pay a hospital for care or services provided to a client enrolled in the hos-

pice program, except as provided under WAC 388-550-2500(3).

(4) ~~((The department shall))~~ MAA does not pay hospitals for inpatient ancillary services in addition to the diagnosis-related group (DRG) payment. The DRG payment includes ancillary services which include, but are not limited to, the following:

(a) Laboratory services;

(b) Diagnostic X-ray and other imaging services, including, but not limited to, magnetic resonance imaging, magnetic resonance angiography, computerized axial tomography, and ultrasound;

(c) Drugs and pharmacy services;

(d) Respiratory therapy and related services;

(e) Physical therapy and related services;

(f) Occupational therapy;

(g) Speech therapy and related services;

(h) Durable medical equipment and medical supplies, including infusion equipment and supplies;

(i) Prosthetic devices used during the client's hospital stay or permanently implanted during the hospital stay, such as artificial heart or replacement hip joints; and

(j) Service charges for handling and processing blood or blood derivatives.

(5) Neither ~~((the department))~~ MAA nor the client ~~((shall be))~~ is responsible for payment for additional days of hospitalization when:

(a) A client exceeds the professional activities study (PAS) length of stay (LOS) limitations; and

(b) The provider has not obtained ~~((department))~~ MAA approval for the LOS extension, as specified in WAC 388-550-1700 ~~((3)(a))~~(4).

(6) The LOS limit for a hospitalization ~~((shall be))~~ is the seventy-fifth percentile of the PAS length of stay for that diagnosis code or combination of codes, published in the *PAS Length of Stay-Western Region edition*, as periodically updated.

(7) Neither ~~((the department))~~ MAA nor the client ~~((shall be))~~ is responsible for payment of elective or nonemergent inpatient services included in ~~((the department's))~~ MAA's selective contracting program and received in a nonparticipating hospital in a selective contracting area (SCA) unless the provider received prior approval from ~~((the department))~~ MAA as required by WAC 388-550-1700 (2)(a). The client, however, may be held responsible for payment of such services if he or she contracts in writing with the hospital at least seventy-two hours in advance of the hospital admission to be responsible for payment. See WAC 388-550-4600, Selective contracting program.

(8) ~~((The department shall))~~ MAA may consider hospital stays of twenty-four hours or less short stays, and ~~((shall))~~ does not pay such stays under the DRG methodology, except that stays of twenty-four hours or less involving the following situations ~~((shall be))~~ are paid under the DRG system:

(a) Death of a client;

(b) Obstetrical delivery;

(c) Initial care of a newborn; or

(d) Transfer of a client to another acute care hospital.

(9)(a) Under the ratio of costs-to-charges (RCC) method, ~~((the department shall))~~ MAA does not pay for inpatient hos-

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pital services provided more than one day prior to the date of a scheduled or elective surgery(~~, nor shall~~), These services must not be charged to the client.

(b) Under the DRG method, ~~((the department shall))~~ MAA deems all services provided prior to the day before a scheduled or elective surgery included in the hospital's DRG payment for the case.

(c) ~~((The department shall))~~ MAA does not count toward the threshold for hospital outlier status:

(i) Any charges for extra days of inpatient stay prior to a scheduled or elective surgery; and

(ii) The associated services provided during those extra days.

(10) ~~((The department shall apply))~~ MAA applies the following rules to RCC cases and high-cost DRG outlier cases for costs over the high-cost outlier threshold:

(a) ~~((The department shall pay hospitals for accommodation costs at the multiple occupancy rate even when a private room is provided to the client. The department shall pay accommodation costs at the semi-private or ward room rate, consistent with the type of accommodations provided.~~

(b) ~~The department shall~~ MAA covers hospital stat charges only for specific laboratory procedures determined and published by ((the department)) MAA as qualified stat procedures. ((The department shall)) MAA does not automatically treat tests generated in the emergency room as justifying a stat order.

~~((e) The department shall reimburse)~~ (b) MAA pays hospitals for special care charges only when:

(i) The hospital has a department of health (DOH) or Medicare-qualified special care unit;

(ii) The special care service being billed, such as intensive care, coronary care, burn unit, psychiatric intensive care, or other special care, was provided in the special care unit;

(iii) The special care service provided is the kind of service for which the special care unit has been DOH-or Medicare-qualified; and

(iv) The client's medical condition required the care be provided in the special care unit.

(11) ~~((The department shall))~~ MAA determines its actual payment for a hospital admission by deducting from the basic hospital payment those charges which are the client's responsibility, referred to as spend-down, or a third party's liability.

(12) ~~((The department shall))~~ MAA reduces reimbursement rates to hospitals for services provided to MI/medical care services clients according to the individual hospital's ratable and/or equivalency factors, as provided in WAC 388-550-4800.

(13) ~~((The department shall))~~ MAA pays for the hospitalization of a client who is eligible for Medicare and Medicaid only when the client has exhausted his or her Medicare part A benefits, including the nonrenewable lifetime hospitalization reserve of sixty days,

(14) In-state and border area hospitals' accommodation charges are paid by multiplying the hospital's RCC rate to the lesser of the room rate submitted by the hospital to MAA or the accommodation charges billed on the claim.

(15) MAA pays out-of-state accommodation charges at the in-state average RCC rate times the hospital's billed charge.

(16) With regard to room rate submittals to MAA:

(a) A hospital must submit to MAA changes on the room rate change form, DSHS 13-687;

(b) Charges must not exceed the hospital's usual and customary charges to the public as required by 42 CFR § 447.271;

(c) New room rates take effect on the effective date stated on the form, or fourteen calendar days after MAA receives the form, whichever is later;

(d) MAA will not make retroactive room rate changes; and

(e) Private rooms are paid at the semi-private room rate.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-3000 DRG payment system. (1) Except where otherwise specified, ~~((the department shall))~~ MAA uses the diagnosis-related group (DRG) system, which categorizes patients into clinically coherent and homogenous groups with respect to resource use, as the reimbursement method for inpatient hospital services.

(2) ~~((The department shall))~~ MAA periodically evaluates which all-patient grouper (AP-DRG) version to use.

(3)(a) ~~((The department shall))~~ MAA calculates the DRG payment for a particular hospital by multiplying the assigned DRG's relative weight, as determined in WAC 388-550-3100, for that admission by the hospital's cost-based conversion factor, as determined in WAC 388-550-3450.

(b) If the hospital is participating in the selective contracting program, the department ~~((shall multiply))~~ multiplies the DRG relative weight for the admission by the hospital's negotiated conversion factor, as specified in WAC 388-550-4600(4).

(4)(a) ~~((The department shall))~~ MAA pays for a hospital readmission within seven days of discharge for the same client when department review concludes the readmission did not occur as a result of premature hospital discharge.

(b) When a client is readmitted to the same hospital within seven days of discharge, and ~~((department))~~ MAA review concludes the readmission resulted from premature hospital discharge, ((the department shall)) MAA treats the previous and subsequent admissions as one hospital stay and pay a single DRG for the combined stay.

(5) If two different DRG assignments are involved in a readmission as described in subsection (4) of this section, ~~((the department shall))~~ MAA reviews the hospital's records to determine the appropriate reimbursement.

(6) ~~((The department shall recognize Medicare's))~~ MAA recognizes Medicaid's DRG payment for a Medicare-Medicaid dually eligible client to be payment in full.

(a) ~~((The department shall))~~ MAA pays the Medicare deductible and co-insurance related to the inpatient hospital services provided to clients eligible for Medicare and Medicaid subject to the Medicaid maximum allowable limit set in WAC 388-550-1200(6).

(b) ~~((The department shall))~~ MAA ensures total Medicare and Medicaid payments to a provider for such client does not exceed ((Medicare's)) Medicaid's maximum allowable charges.

(c) ~~((The department shall))~~ MAA pays for those allowed charges beyond the threshold using the outlier policy described in WAC 388-550-3700 in cases where:

- (i) Such client's Medicare part A benefits including life-time reserve days are exhausted; and
- (ii) The Medicaid outlier threshold status is reached.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-3100 Calculating DRG relative weights. (1) ~~((The department shall))~~ MAA sets Washington Medicaid-specific ~~((diagnosis-related group (-) DRG (-)))~~ DRG ~~(-))~~ relative weights, as follows:

(a) ~~((The department shall))~~ Uses the all-patient grouper (AP-DRG) to classify Washington Medicaid hospital admissions data ((and the hospital admissions data in the Washington state department of health's comprehensive hospital abstract reporting system (CHARS), using the all-patient grouper (AP-DRG))).

(b) ~~((The department shall test))~~ Statistically tests each DRG ~~((statistically))~~ for adequacy of sample size to ensure that relative weights meet acceptable reliability and validity standards.

(c) ~~((The department shall establish))~~ Establishes relative weights from Washington Medicaid hospital admissions data. These relative weights may be stable or unstable.

(d) ~~((The department shall establish relative weights from CHARS derived data which include Medicaid data. These relative weights may be stable or unstable.~~

(e) ~~The department shall test))~~ Tests the stability of Washington Medicaid relative weights ~~((established in))~~ from subsection (1)(c) of this section using ~~((the null hypothesis test at seventy-five percent confidence interval. The department shall))~~ a reasonable statistical test to determine if the weights are stable. MAA accepts as stable and adopts those Washington Medicaid relative weights that pass the ~~((null hypothesis))~~ reasonable statistical test.

~~((f) The department shall test the stability of CHARS derived relative weights established in subsection (1)(d) of this section using the same procedure as in subsection (c) of this section. The department shall replace unstable Washington Medicaid relative weights with stable CHARS derived relative weights.~~

~~(g) The department shall replace remaining))~~

(e) Pays admissions for DRGs having unstable Washington Medicaid relative weights ((with New York proxy relative weights. For the purposes of this chapter, remaining unstable Washington Medicaid relative weights are those that fail the null hypothesis test and for which there are no stable CHARS derived relative weight replacements)) using the RCC method.

(2) When using ratios with a Washington Medicaid relative weight as base, ((the department shall:

(a) Standardize the relative weights by adjusting the CHARS and New York proxy relative weights; and

(b) Assure all Medicaid stable and proxy weights equal a statement case mix of) MAA adjusts all stable Medicaid relative weights so that the average weight of the case mix population equals 1.0.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-3500 Inflation adjustments. (1) Effective on ~~((October))~~ November 1 of each year, ~~((the department shall))~~ MAA adjusts all cost-based conversion factors ~~(CBCF)~~ for inflation for the ~~((federal fiscal year October 1 through September 30))~~ following twelve months.

(2) ~~((The department shall use as))~~ MAA makes CBCF adjustments using the annual inflation factor from the ((prospective payment system (-)) PPS (-))-type hospital market-basket index factor from the most recent McGraw-Hill Data Resources, Inc., (DRI) forecast.

(3) ~~((The department shall))~~ MAA considers adjustments to negotiated conversion factors according to the terms of the individual hospital's contract.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-3700 DRG outliers and administrative day rates. (1) ~~((The department shall))~~ MAA calculates high-cost diagnosis-related group (DRG) outlier payments for qualifying cases as follows:

(a) To qualify as a DRG high-cost outlier ~~(-))~~ the allowed charges for ~~((the))~~ a case;

(i) With an admission date prior to July 1, 1999, must exceed a threshold of three times the applicable DRG payment or twenty-eight thousand dollars, whichever is greater; and

(ii) For an admission date on and after July 1, 1999, must exceed a threshold of three times the applicable DRG payment or thirty-three thousand dollars, whichever is greater.

(b) ~~((Reimbursement))~~ Payment for high-cost outlier cases other than those in subsections (1)(c) and (d) of this section ~~((shall be))~~ is the applicable DRG payment amount, plus seventy-five percent of the hospital's ratio of costs-to-charges (RCC) ~~((ratio))~~ rate applied to the allowed charges exceeding the outlier threshold.

(c) ~~((Reimbursement))~~ Payment for psychiatric high-cost outliers for DRGs 424-432 ~~((shall be))~~ is at the applicable DRG rate plus one hundred percent of the hospital RCC applied to the allowed charges exceeding the outlier threshold.

(d) ~~((Reimbursement))~~ Payment for high-cost outlier cases at in-state children ~~(-))~~ hospitals ~~((shall be))~~ is the applicable DRG payment amount, plus eighty-five percent of the hospital's RCC applied to the allowed charges exceeding the outlier threshold.

(2) ~~((The department shall))~~ MAA calculates low-cost DRG outlier payments for qualifying cases as follows:

(a) To qualify as a DRG low-cost outlier, the allowed charges for ~~((the))~~ a case ~~((shall));~~

(i) With an admission date prior to July 1, 1999, must be less than or equal to ten percent of the applicable DRG payment or four hundred dollars, whichever is greater; and

(ii) With an admission date on and after July 1, 1999, must be less than or equal to ten percent of the applicable DRG payment or four hundred fifty dollars, whichever is greater.

(b) ~~((The department's reimbursement))~~ MAA's payment for low-cost DRG outlier claims ~~((shall be))~~ is the allowed charges multiplied by the hospital's RCC.

(3) ~~((The department shall))~~ MAA pays hospitals an all-inclusive administrative day rate for those days of hospital stay in which a client no longer needs an acute inpatient level of care, but is not discharged because an appropriate noninpatient hospital placement is not available.

(a) ~~((The department shall))~~ MAA sets ~~((reimbursement))~~ payment for administrative days at the statewide average Medicaid nursing facility per diem rate. The administrative day rate ~~((shall be))~~ is adjusted annually effective ~~((October))~~ November 1.

(b) Ancillary services ~~((shall))~~ are not ~~((be reimbursed))~~ paid during administrative days.

(c) For a DRG payment case, ~~((the department shall))~~ MAA does not pay administrative days until the case exceeds the high-cost outlier threshold for that case.

(d) For DRG-exempt cases, ~~((the department shall identify))~~ MAA identifies administrative days during the length of stay review process after the client's discharge from the hospital.

(e) If the hospital admission is solely for a stay until an appropriate sub-acute placement can be made, ~~((the department shall reimburse))~~ MAA pays the hospital at the administrative day ~~((per diem))~~ rate from the date of admission.

(4) ~~((The department shall))~~ MAA makes day outlier payments to hospitals, in accordance with section 1923 (a)(2)(C) of the Social Security Act, for exceptionally long-stay clients. A hospital ~~((shall be))~~ is eligible for the day outlier payment if it meets all of the following criteria:

(a) The hospital is a disproportionate share (DSH) hospital and the client served is under the age of six, or the hospital may not be a DSH hospital but the client served is a child under age one;

(b) The payment methodology for the admission is DRG;

(c) The charge for the hospitalization is below the high-cost outlier threshold ~~((three times the DRG rate or twenty-eight thousand dollars, whichever is greater))~~ as defined in subsection (1)(a) of this section; and

(d) The client's length of stay is over the day outlier threshold for the applicable DRG. The day outlier threshold is defined as the number of an average length of stay for a discharge (for an applicable DRG), plus twenty days.

(5) ~~((The department shall))~~ MAA bases the day outlier payment on the number of days exceeding the day outlier threshold, multiplied by the administrative day rate.

(6) ~~((The department's))~~ MAA's total ~~((reimbursement))~~ payment for day outlier claims ~~((shall be))~~ is the applicable DRG payment plus the day outlier or administrative days payment.

(7) Day outliers ~~((shall))~~ are only ~~((be))~~ paid for cases that do not reach high-cost outlier status. A client's outlier claim ~~((shall be))~~ is either a day outlier or a high-cost outlier, but not both.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-4500 Payment method—RCC. (1)(a) ~~((The department shall))~~ MAA calculates a hospital's ratio of costs-to-charges (RCC) by dividing allowable operating costs by patient revenues associated with these allowable costs.

(b) ~~((The department shall))~~ MAA bases these figures on the annual Medicare cost report data provided by the hospital.

(c) ~~((The department shall))~~ MAA updates hospitals' RCC ~~((ratios))~~ rates annually with the submittal of new HCFA 2552 Medicare cost report data. Prior to computing the ratio, ~~((the department shall))~~ MAA excludes increases in operating costs or total rate-setting revenue attributable to a change in ownership.

(2) ~~((The department shall))~~ MAA limits a hospital's RCC to one hundred percent of its allowable charges. ~~((The department shall))~~ MAA recoups payments made to a hospital in excess of its customary charges to the general public.

(3) ~~((The department shall))~~ MAA establishes the basic hospital payment by multiplying the hospital's assigned RCC ~~((ratio))~~ rate by the allowed charges for medically necessary services. ~~((The department shall))~~ MAA deducts client responsibility (spend-down) or third-party liability (TPL) as identified on the billing invoice or by ~~((the department))~~ MAA from the basic payment to determine the actual payment due from ~~((the department))~~ MAA for that hospital admission.

(4) ~~((The department shall))~~ MAA uses the RCC payment method to reimburse:

(a) Peer group A hospitals;

(b) Other DRG-exempt hospitals identified in WAC 388-550-4300; and

(c) Any hospital for DRG-exempt services described in WAC 388-550-4400.

(5) ~~((The department shall))~~ MAA deems the RCC for in-state and border area hospitals lacking sufficient HCFA 2552 Medicare cost report data the weighted average of the RCC ~~((ratios))~~ rates for in-state hospitals.

(6) ~~((The department shall))~~ MAA calculates an outpatient ratio of costs-to-charges by dividing the projected costs by the projected charge multiplied by the average RCC.

(a) In no case ~~((shall))~~ may the outpatient adjustment factor exceed 1.0.

(b) The outpatient adjustment factor ~~((shall be))~~ is updated ~~((each October))~~ annually effective November 1.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-4700 Payment—Non-SCA participating hospitals. (1) In a selective contracting area (SCA), ~~((the department shall))~~ MAA pays any qualified hospital for inpatient hospital services provided to an eligible medical care client for treatment of an emergency medical condition.

(2) ~~((The department shall))~~ MAA pays any qualified hospital for medically necessary but nonemergent inpatient hospital services provided to an eligible medical care client

deemed by the department to reside an excessive travel distance from a contracting hospital.

(a) The client is deemed to have an excessive travel burden if the travel distance from a client's residence to the nearest contracting hospital exceeds the client's county travel distance standard, as follows:

<u>County</u>	<u>Community Travel Distance</u> <u>((Norm)) Standard</u>
Adams	25 miles
Asotin	15 miles
Benton	15 miles
Chelan	15 miles
Clallam	20 miles
Clark	15 miles
Columbia	19 miles
Cowlitz	15 miles
Douglas	20 miles
Ferry	27 miles
Franklin	15 miles
Garfield	30 miles
Grant	24 miles
Grays Harbor	23 miles
Island	15 miles
Jefferson	15 miles
King	15 miles
Kitsap	15 miles
Kittitas	18 miles
Klickitat	15 miles
Lewis	15 miles
Lincoln	31 miles
Mason	15 miles
Okanogan	29 miles
Pacific	21 miles
Pend Oreille	25 miles
Pierce	15 miles
San Juan	34 miles
Skagit	15 miles
Skamania	40 miles
Snohomish	15 miles
Spokane	15 miles
Stevens	22 miles
Thurston	15 miles
Wahkiakum	32 miles
Walla Walla	15 miles
Whatcom	15 miles
Whitman	20 miles
Yakima	15 miles

(b) If a client must travel outside his/her SCA to obtain inpatient services not available within the community, such as treatment from a tertiary hospital, the client ~~((shall))~~ may obtain such services from a contracting hospital appropriate to the client's condition.

(3) ~~((The department shall))~~ MAA requires prior authorization for all nonemergent admissions to nonparticipating hospitals in an SCA. See WAC 388-550-1700 (2)(a).

(4) ~~((The department shall))~~ MAA pays a licensed hospital all applicable Medicare deductible and coinsurance amounts for inpatient services provided to Medicaid clients who are also beneficiaries of Medicare part A subject to the Medicaid maximum allowable as established in WAC 388-550-1200 (8)(a).

(5) The department ~~((shall))~~ pays any licensed hospital DRG-exempt services as listed in WAC 388-550-4400.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-4800 Hospital payment method—State-only programs. (1)(a) ~~((The department shall))~~ MAA calculates payments to hospitals for state-only MI/medical care services clients according to the:

- (i) Diagnosis-related group (DRG); or
 - (ii) Ratio of cost-to-charge (RCC) methodologies; and
- (b) ~~((The department shall))~~ MAA reduces hospitals' Title XIX rates by their ratable and/or equivalency (EQ) factors, as applicable.

(2) ~~((The department shall))~~ MAA calculates ratables as follows:

(a) A hospital's Medicare and Medicaid revenues are added together, along with the value of the hospital's charity care and bad debts. The hospital's low-income disproportionate share (LIDSH) revenue is deducted from this total to arrive at the hospital's community care dollars.

(b) Revenue generated by hospital-based physicians, as reported in the hospital's HCFA 2552 report, is subtracted from total hospital revenue, also as reported in the hospital's cost report.

(c) The amount derived in step (2)(a) is divided by the amount derived in step (2)(b) to obtain the ratio of community care dollars to total revenue.

(d) The result of step (2)(c) is subtracted from 1.000 to derive the hospital's ratable. The hospital's Title XIX cost-based conversion factor (CBCF) or RCC rate is multiplied by (1-ratable) for an MI or medical care services client.

(e) The reimbursements for MI/medical care services clients are mathematically represented as follows:

$$\text{MI/medical care services RCC} = \text{Title XIX RCC} \times (1 - \text{Ratable})$$

$$\text{MI/medical care services CBCF} = \text{Title XIX Conversion Factor} \times (1 - \text{Ratable}) \times \text{EQ}$$

(3) ~~((The department shall))~~ MAA updates each hospital's ratable annually on ~~((July))~~ August 1.

(4)(a) ~~((The department shall))~~ MAA uses the equivalency factor (EQ) to hold the DRG reimbursement rates for the MI/medical care services programs at their current level prior to any rebasing. ~~((The department shall apply))~~ MAA applies the EQ only to the Title XIX DRG CBCFs. ~~((The~~

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~~department shall~~) MAA does not apply the EQ when the DRG rate change is due to the application of the annual ((DRG) inflation ((adjustment)) factor from the PPS-type hospital market-basket index from the most recent McGraw-Hill Data Resources, Inc., (DRI) forecast.

(b) ~~((The department shall))~~ MAA calculates a hospital's equivalency factor as follows:

EQ = (Current MI/medical care services conversion factor)/(Title XIX DRG rate x (1-ratable))

(5) Effective for hospital admissions on or after December 1, 1991, ~~((the department shall))~~ MAA reduces its payment for MI (but not medical care services) clients further by multiplying it by ninety-seven percent. ((The department shall apply)) MAA applies this payment reduction adjustment to the MIDSH methodology in accordance with section 3(b) of the "Medicaid Voluntary Contributions and Provider-Specific Tax Amendment of 1991."

(6) When the MI/medical care services client has a trauma ~~((severity factor of nine or more, the department shall))~~ that qualifies under the trauma program, MAA pays the full Medicaid Title XIX amount when care has been provided in a nongovernmental hospital designated by DOH as a trauma center. ((The department shall apply)) MAA applies the reduction in MI cases ((where the trauma severity factor is less than nine)) which do not qualify under the trauma program. ((The department shall)) MAA gives an annual grant to governmental hospitals certified by DOH.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-6000 Payment—Outpatient hospital services. (1)(a) ~~((The department shall))~~ MAA determines allowable costs for hospital outpatient services, excluding nonallowable revenue codes, by the application of the hospital-specific outpatient ratio of costs to charges (RCC), except as specified in subsection (2) below.

(b) ~~((The department shall))~~ MAA does not pay separately for ancillary hospital services which are included in the hospital's RCC reimbursement rate.

(2) ~~((The department shall))~~ MAA pays the lesser of billed charges or ((the department's)) MAA's published maximum allowable fees for the following outpatient services:

- (a) Laboratory/pathology;
- (b) Radiology, diagnostic and therapeutic;
- (c) Nuclear medicine;
- (d) Computerized tomography scans, magnetic resonance imaging, and other imaging services;
- (e) Physical therapy;
- (f) Occupational therapy;
- (g) Speech/language therapy; and
- (h) Other hospital services as identified and published by the department.

(3) ~~((The department shall))~~ MAA is not ((be)) responsible for payment of hospital care and/or services provided to a client enrolled in a ((department)) MAA-contracted, prepaid medical plan when the client fails to use:

(a) For a nonemergent condition, a hospital provider under contract with the plan;

(b) In a bona fide emergent situation, a hospital provider under contract with the plan; or

(c) The provider whom ~~((the department))~~ MAA has authorized to provide and receive payment for a service not covered by the prepaid plan but covered under the client's medical assistance program.

(4) ~~((The department shall))~~ MAA considers a hospital stay of twenty-four hours or less as an outpatient short stay. ((The department shall)) MAA does not ((reimburse)) pay an outpatient short stay under the diagnosis-related group system except when it involves one of the following situations:

- (a) Death of a client;
- (b) Obstetrical delivery;
- (c) Initial care of a newborn; or
- (d) Transfer of a client to another acute care hospital.

(5) ~~((The department shall))~~ MAA does not pay for patient room and ancillary services charges beyond the twenty-four period for outpatient stays.

(6) ~~((The department shall))~~ MAA does not cover short stay unit, emergency room facility charges, and labor room charges in combination when the billed periods overlap.

(7) ~~((The department shall))~~ MAA requires that the hospital's bill to the department shows the admitting, principal, and secondary diagnoses, and include the attending physician's name.

(8) Payments for trauma services may be enhanced per WAC 246-976-935.

WSR 99-03-006

PROPOSED RULES

INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 98-6—Filed January 7, 1999, 2:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-07-063.

Title of Rule: Pharmacy benefit standards.

Purpose: The proposed rules would seek to increase uniformity in the terminology used in the advertising of pharmacy benefits. This will increase the understanding of the consumer who read, hear, or view the advertisement.

Other Identifying Information: Insurance Commissioner Matter No. R 98-6.

Statutory Authority for Adoption: RCW 48.02.060, 48.30.010, 48.44.050, 48.46.200.

Statute Being Implemented: RCW 48.30.040, 48.44.110, 48.46.400.

Summary: These proposed rules will simplify pharmacy benefit descriptions used in advertising by establishing definitions for terms commonly used to describe these benefits.

Reasons Supporting Proposal: Consumers, providers and insurers have all been frustrated with the advertising of pharmacy benefits. The current confusion caused by the advertising of pharmacy benefits has led to numerous consumer complaints to the commissioner. These proposed rules would increase the consumer's ability to understand what the

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advertised benefits means in terms of what benefit is provided by a plan.

Name of Agency Personnel Responsible for Drafting and Implementation: Don Sloma, Olympia, Washington, (360) 586-5597; and **Enforcement:** Jeffrey Coopersmith, Olympia, Washington, (360) 664-4615.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The terms and definitions used by health plans in describing their pharmacy benefits have been the subject of complaints to the commissioner. Consumers and providers of pharmacy services have been confused about a variety of carrier terms in managing mental health treatments. Terms are used interchangeably throughout the industry but the [they] may be defined or used to mean many different things. These proposed rules will simplify pharmacy benefit descriptions used in advertising by establishing definitions for terms commonly used to describe these benefits. This would improve the consumer's ability to understand the benefits provided by a plan and compare those benefits to benefits provided by other plans. The rules do not mandate a pharmacy benefit or regulate the provisions of a benefit that a plan may include. These proposed rules focus on the advertising of a pharmacy benefit if such a benefit is included and is advertised. These proposed rules would help prevent the possibility of an issuer knowingly or unknowingly using false, misleading or deceptive advertising of a pharmacy benefit.

Proposal Changes the Following Existing Rules: WAC 284-43-130 will be amended to add definitions.

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

Small Business Economic Impact Statement

Introduction: This report analyzes a proposal to amend existing rules and add new sections regarding the advertising of pharmacy benefits. These changes are proposed in an effort to make the rules more current, effective, and efficient. This evaluation is completed to demonstrate that the proposed changes improve the rules without imposing disproportionate costs on small businesses.

Background: The proposed rules aid in clarifying an existing regulation, WAC 284-50-010/284-50-230. The regulation was adopted in 1973 and establishes a framework for regulating the advertisement of health insurance. Consumers, state agencies, providers, and insurers alike have struggled with the terminology surrounding health care. Different meanings are used for the same term by different parties. Consumers were confused by what the policy was supposed to offer and what it actually did provide. The commissioner received numerous complaints in this area from the public. The commissioner decided to review the rules in this area as a part of the regulatory improvement process and see if consumers could be better served.

The commissioner established a working group composed of health care service contractors, health maintenance organizations, providers, advocacy organizations, interested state agencies, and consumers. This group held four public

meetings and discussed how the consumers could better understand exactly what benefits the product being advertised actually contains. The rules do not mandate or prescribe benefits but merely try to bring some certainty and standards to the advertising of pharmacy benefits to better inform consumers and avoid potentially false or misleading advertising. Many ideas were discussed. The proposed rules are a result of the refinement of ideas over time by a diverse group of concerned parties.

The proposed changes should clarify existing requirements and insurers should find it easier to comply with the processes. The existing regulatory scheme will be strengthened, clarified, and streamlined.

Federal and Other State Law: This rule does not conflict with any other federal or state law.

Industry Codes: These proposed rules will apply to health insurance sold in the state of Washington that have a pharmacy benefit and choose to advertise it. The proposed rules will affect Hospital and Medical Plans (industry code 6324).

Probable Costs: The proposed rules may impose some costs on the regulated industry. The information requested is already widely available from the issuers in various forms but there will be some cost for the issuers to ensure that information the plans that provide pharmacy benefits meet the requirements of these rules.

Additional costs could be incurred by adding a listed phone number in the required materials that would allow consumers to ask the issuer about the pharmacy benefits. Industry members already have staff time dedicated to answering consumer questions, this phone number will enable consumers to go directly to an employee who can address their issues. Any increase in staff time due to additional calls will lead to better informed consumers. This will take on a preventative role by avoiding possible conflicts or grievances by consumers at later stages and should save money for the issuers. The line should have a nominal cost to the issuers if a new line needs to be added or an existing line is rerouted for the purposes of this rule.

There are no additional reporting requirements associated with these rules. As with any printed piece of advertising, the insurers would have to maintain the records of the advertisement (WAC 284-50-200). The information created for these rules is generally provided in some amount in some fashion currently, any new materials will replace existing materials. There may be some additional cost in maintaining records though.

Small Business Impact: The proposed rules do not impose a disproportionately higher economic burden on small business within the four-digit classifications. It is probable that small businesses will have an easier time and have a smaller economic burden in complying than larger businesses. A document must be created that details the pharmacy benefit of the plan that is advertised (again, if there is no pharmacy benefit in the plan these rules do not apply). Smaller businesses have fewer plans and will require less time to review their plan(s), create the documents to comply, and fulfill any administrative, record-keeping or organizational requirements necessary to comply. The more numer-

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ous plans offered, the greater the amount of time necessary to review the plans to ensure compliance.

Mitigation: Mitigation to reduce the economic impact of the proposed rules on small business was considered and acted upon. The commissioner worked with representatives of the industry to limit costs as much as possible while retaining the efficacy of the rules. The workgroup sought to craft language that would ensure that an issuer would not have to make available these materials in combination with every advertisement. Instead, the materials need only be presented one time.

The content of the rules also evolved with the participation of members of industry. The questions that are asked were developed to present the most useful information in the least costly manner. Some questions were altered because it would be too costly or time-consuming for carriers to develop the responses. One such question would have required the issuer to total the number of network pharmacies. It was believed that this number was too fluid to be detailed - pharmacies join and drop frequently and any list would quickly be dated. The requirement was dropped rather than forcing carriers to update their materials on an irregularly but often [basis].

These mitigatory measures should reduce costs on all businesses, particularly small businesses.

The work questions were developed by the workgroup to develop the questions and information to be provided enabled [enabling] mitigatory steps to be taken early on in the process. Another mitigatory method is in the text in the rule which explains how the questions can be answered. An example is

An additional mitigatory measure that will be utilized is to delay the effective date of these rules to enable the issuers to have ample time to prepare the necessary information and to use up their available stocks of related information. The requirements of these proposed rules would not apply to contracts issued prior to June 30, 1999.

Industry Involvement: Many of the substantive issues and concepts have been discussed with members of the regulated industry. Businesses that will be affected by the proposed rules were invited to provide input to the commissioner's staff throughout the rule-writing process. A preproposal statement of inquiry (CR-101) was filed for the rule on March 17, 1998. The CR-101 was sent to all health insurers and was posted on the commissioner's website. Notification that the commissioner would be reviewing this area in the regulatory improvement process was also posted on the commissioner's website.

A workgroup including industry members met four times and developed the framework for the rules. A mailing list was created prior to the establishment of the workgroup and all parties on that list were kept apprised of all meetings and activities. Any party that asked to be on that mailing list was welcome and the list grew to approximately sixty parties. Several members of industry were active participants in the workgroup, others choose to be apprised via the mailing list. Industry associations were also on the mailing list to enable industry to be represented in that fashion also.

All ideas were considered and the group decided that these concepts would be the most beneficial. Proposed draft

language was reviewed and critiqued by the group. Many of the concepts and much of the language and changes to earlier drafts of the language were suggested by members of the regulated industry.

Conclusion: These proposed rules should not have a disproportionate impact on small businesses. The information is similar to information that carriers currently make available in some form to consumers, it will be presented in terms and in a method to make it more understandable and useful to the consumer. Costs and administrative concerns should be proportionate to the size of the business or may even be greater for the larger businesses. Mitigatory measures taken in the drafting of these proposed rules will lessen costs on all businesses, including small businesses.

A copy of the statement may be obtained by writing to Kacy Brandeberry, Administrative Rules Coordinator, P.O. Box 40255, Olympia, WA, 98504-0255, phone (360) 664-3784, fax (360) 664-2782.

RCW 34.05.328 applies to this rule adoption.

Hearing Location: Insurance Building, 14th and Water Street, 2nd Floor Conference Room, Olympia, Washington, on February 23, 1999, at 1 p.m.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by February 22, 1998 [1999], TDD (360) 407-0409.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40256, Olympia, WA, 98504-0256, Internet e-mail KacyB@oic.wa.gov, fax (360) 407-0186, by February 22, 1999.

Date of Intended Adoption: March 15, 1999.

January 7, 1999

Greg J. Scully

Chief Deputy Insurance Commissioner

AMENDATORY SECTION (Amending Order R 97-3, filed 1/22/98, effective 2/22/98)

WAC 284-43-130 Definitions. Except as defined in other subchapters and unless the context requires otherwise, the following definitions shall apply throughout this chapter.

(1) "Advertisement" means:

(a) Printed and published material, audio visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, television scripts, billboards, and similar displays, or used on or accessible via the Internet, (including, but not limited to, the World Wide Web, usegroups on the Usenet or elsewhere, chat groups or rooms, and mailing lists or "listservs" or other discussion groups) or used on or accessible via any other telecommunications resources, or otherwise available to the public; or

(b) Descriptive literature and sales aids of all kinds issued by an insurer, agent, or broker for presentation to members of the insurance buying public, including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters, and all materials on or accessible via the Internet (including, but not limited to, the World Wide Web, newsgroups on the Usenet or elsewhere, chat groups or rooms, and mailing lists or "listservs" or other discussion groups) or used on or accessible via any other telecommunications resources, or otherwise available to the public; or

(c) Prepared sales talks, presentations, and material for use by agents, brokers, and solicitors.

(2) "Coverage criterion" is an element that may be used to define a covered benefit and whose application may result in exceptions, reductions or limitations. Coverage criteria may include, but are not limited to, definitions of:

(a) Cost effectiveness;

(b) Circumstances where potential health benefits will exceed potential harm of particular treatments;

(c) An explicit exception, reduction or limitation in a covered benefit, regardless of its medical necessity, except as may be prohibited by state or federal law or rule;

(d) An explicit exception, reduction or limitation in any covered benefit provided only for the convenience of an enrollee or provider, where such convenience is unrelated to medical necessity; or

(e) Medical necessity.

(3) "Covered benefits" means;

(a) A health care service to treat a covered health condition according to the terms of any health plan; or

(b) Those health care services to which a covered person is entitled under the terms of a health plan. Unless otherwise required by state or federal rule or law, a covered benefit must be stated as treatment for a covered health condition. A carrier may establish coverage criteria whose application may result in exclusions, reductions or limitations in covered benefits.

((2)) (4) "Covered health condition" means any disease, illness, injury or condition of health risk covered according to the terms of any health plan.

(5) "Covered person" means an individual covered by a health plan including an enrollee, subscriber, policyholder, or beneficiary of a group plan.

((3)) (6) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

((4)) (7) "Emergency services" means otherwise covered health care services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

((5)) (8) "Enrollee point-of-service cost-sharing" or "cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

((6)) (9) "Exception" or "exclusion" means any provision in a health plan whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the health plan. If a coverage criterion results in the exclusion of a benefit, the coverage criterion must be stated when describing the exception.

(10) "Facility" means an institution providing health care services, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers,

diagnostic, laboratory, and imaging centers, and rehabilitation and other therapeutic settings.

((7)) (11) "Formulary" means a listing that identifies the drugs approved for use in a health plan.

(12) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding:

(a) Denial of health care services or payment for health care services; or

(b) Issues other than health care services or payment for health care services including dissatisfaction with health care services, delays in obtaining health care services, conflicts with carrier staff or providers, and dissatisfaction with carrier practices or actions unrelated to health care services.

((8)) (13) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

((9)) (14) "Health care service" or "health service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

((10)) (15) "Health carrier" or "carrier" means a disability insurance company regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, and a health maintenance organization as defined in RCW 48.46.020.

((11)) (16) "Health plan" or "plan" means any individual or group policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care service except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Limited health care service offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(i) Employer-sponsored self-funded health plans;

(j) Dental only and vision only coverage; and

(k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

((12)) (17) "Independent third-party review" means a review and binding determination regarding a denial of coverage by a carrier, whether on grounds of failing to meet cov-

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erage criteria or on grounds of not being a covered benefit for some other reason, by a majority of at least three professionals licensed to perform the service denied, who have no direct financial interest in the carrier, the patient, the treating provider, nor any organization that may benefit from the decision to approve or deny coverage.

(18) "Institutional advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of health coverage, or the promotion of a particular health carrier.

(19) "Invitation to inquire" means an advertisement having as its objective the creation of a desire to inquire further about a health plan or health plans and which is limited to a brief description of the loss for which a benefit is payable, and which may contain:

(a) The dollar amount of benefit payable; and/or

(b) The period of time during which the benefit is payable; provided the advertisement does not refer to cost. An advertisement which specifies either the dollar amount of benefit payable or the period of time during which the benefit is payable shall contain a provision in effect as follows:

"For costs and further details of the coverage, including exclusions, any reductions or limitations and the terms under which the plan may be continued in force, see your agent or write to the company."

(20) "Invitation to contract" means an advertisement which is neither an invitation to inquire nor an institutional advertisement.

(21) "Limitation" means any provision which restricts coverage under the health plan other than an exception or a reduction. If a coverage criterion results in a limitation, that coverage criterion must be stated when describing the limitation.

(22) "Managed care plan" means a health plan that coordinates the provision of covered health care services to a covered person through the use of a primary care provider and a network.

((13)) (23) "Medical management practices" are the policies and procedures used by a carrier to ensure the medical necessity of a covered benefit, and include, but are not limited to, policies and procedures governing:

(a) Treatment approvals and denials;

(b) Treatment protocols;

(c) Quality assurance activities; and

(d) Utilization management practices.

(24) "Medically necessary" or "medical necessity" is a coverage criterion a carrier may apply to determine whether a health service is a covered benefit if the service:

(a) Is a clinically appropriate choice in the opinion of the enrollee's participating provider;

(b) Has a reasonable probability of achieving the intended clinical outcome, particularly in consideration of expected enrollee compliance with treatment requirements; and

(c) Is consistent with recognized standards within a relevant health profession.

(25) "Network" means the group of participating providers and facilities providing health care services to a particular health plan. A health plan network for carriers offering more than one health plan may be smaller in number than the total

number of participating providers and facilities for all plans offered by the carrier.

((14)) (26) "Participating provider" and "participating facility" means a facility or provider who, under a contract with the health carrier or with the carrier's contractor or sub-contractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, from the health carrier rather than from the covered person.

((15)) (27) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

((16)) (28) "Pharmacy services" means the practice of pharmacy as defined in chapter 69.41 RCW.

(29) "Primary care provider" means a participating provider who supervises, coordinates, or provides initial care or continuing care to a covered person, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

((17)) (30) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

((18)) (31) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

((19)) (32) "Reduction" means any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction not been used. If a coverage criterion results in a reduction, that coverage criterion must be stated when describing the reduction.

(33) "Small group" means a health plan issued to a small employer as defined under RCW 48.43.005(24) comprising from one to fifty eligible employees.

(34) "Substitute drug" means a therapeutically equivalent substance as defined in chapter 69.41 RCW.

(35) "Supplementary pharmacy services" or "other pharmacy services" means pharmacy services involving the provision of drug therapy management and other services not required under state and federal law but that may be rendered in connection with dispensing, or that may be used in disease prevention or disease management.

NEW SECTION

WAC 284-43-810 Coverage for pharmacy services.

(1) The commissioner may disapprove any contract issued or renewed after June 30, 1999, that includes coverage for pharmacy services if it does not include the following statement:

YOUR RIGHT TO SAFE AND EFFECTIVE PHARMACY SERVICES

State and federal laws establish standards to assure safe and effective pharmacy services, and to guarantee your right to know what drugs are covered under this plan and what coverage limitations are in your contract. If you would like more information about the drug coverage policies under this plan, or if you have a question or a concern about your pharmacy benefit, please contact us (the health carrier) at 800-???-????.

If you would like to know more about your rights under the law, or if you think anything you received from this plan may not conform to the terms of your contract, you may contact the Washington State Office of Insurance Commissioner at 800-562-6900. If you have a concern about the pharmacists or pharmacies serving you, please call the State Department of Health at 360-???-????.

(2) The commissioner may disapprove any contract issued or renewed after June 30, 1999, that includes coverage for pharmacy services if it does not pose and respond in writing to the following questions in language that complies with WAC 284-50-010 through 284-50-230 accompanying an invitation to contract which is presented to each prospective enrollee prior to enrollment:

(a) **"Does this plan limit or exclude certain drugs my health care provider may prescribe, or encourage substitutions for some drugs?"** The response must describe the process for developing coverage standards and formularies, including the principal criteria by which drugs are selected for inclusion, exclusion, restriction or limitation. If a determination of medical necessity is used, that term must be briefly defined here. Coverage standards involving the use of substitute drugs, whether generic or therapeutic, are either an exception, reduction or limitation and must be discussed here. Major categories of drugs excluded, limited or reduced from coverage may be included in this response.

(b) **"When can my plan change the approved drug list (formulary)? If a change occurs, will I have to pay more to use a drug I had been using?"** The response must identify the process of changing formularies and coverage standards, including changes in the use of substitute drugs. If the plan gives prior notice of these changes or has provisions for "grandfathering" certain ongoing prescriptions, these practices may be discussed here.

(c) **"What should I do if I want a change from limitations, exclusions, substitutions or cost increases for drugs specified in this plan?"** The response must include a phone number to call with a request for a change in coverage decisions, and must discuss the process and criteria by which such a change may be granted. The response may refer to the appeals or grievance process without describing that process in detail here. The response must state the time within which requests for changes will be acted upon in normal circumstances and in circumstances where an emergency medical condition exists.

(d) **"How much do I have to pay to get a prescription filled?"** The response must list enrollee point-of-service cost-sharing dollar amounts or percentages for all coverage categories including at least name brand drugs, substitute

drugs and any drugs which may be available, but which are not on the health plan's formulary.

(e) **"Do I have to use certain pharmacies to pay the least out of my own pocket under this health plan?"** If the answer to this question is "yes," the plan must state the approximate number of pharmacies in Washington at which the most favorable enrollee cost sharing will be provided, and some means by which the enrollee can learn which ones they are.

(f) **"How may days' supply of most medications can I get without paying another co-pay or other repeating charge?"** The response should discuss normal and exceptional supply limits, mail order arrangements and travel supply and refill requirements or guidelines.

(g) **"What other pharmacy services does my health plan cover?"** The response should include any "intellectual services," or disease management services reimbursed by the plan in addition to those required under state and federal law in connection with dispensing, such as disease management services for migraine, diabetes, smoking cessation, asthma, or lipid management.

(3) The commissioner may disapprove any contract issued or renewed after June 30, 1999, that includes coverage for pharmacy services if it does not state the general categories of drugs excluded from coverage. Such categories may include items such as appetite suppressants, dental prescriptions, cosmetic agents or most over-the-counter medications. This subsection intends only to promote clearer enrollee understanding of the exclusions, reductions and limitations contained in a health plan, and not to suggest that any particular categories of coverage for drugs or pharmacy services should be excluded, reduced, or limited by a health plan.

(4)(a) In lieu of meeting the requirements of this section, a health carrier may request that the commissioner publish a document which serves the purposes of this section for any of its plans. Such document will pose and respond to the questions contained in subsections (2) and (3) of this section.

(b) If a carrier makes a request according to this subsection, the request must be accompanied by the information the commissioner may require by written request to the carrier in order to prepare the document. The carrier must supply the requested information in writing. The information must be accompanied by a certification by the carrier that it is accurate, complete, and not misleading. Any further information requested by the commissioner must be provided promptly and accompanied by a similar certification. The information in all cases must be organized so as to facilitate the preparation of the document.

(c) No more than thirty days after receipt of the document described in (a) of this subsection, the carrier must provide it to each prospective enrollee considering enrollment in a health plan that covers pharmacy services benefits.

PROPOSED

WSR 99-03-007
PROPOSED RULES

INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 98-7—Filed January 7, 1999, 2:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-07-064.

Title of Rule: Mental health benefits.

Purpose: These proposed rules would seek to increase uniformity in the terminology used in the advertising of mental health benefits. This will increase the understanding of the consumer who read, hear, or view the advertisement.

Other Identifying Information: Insurance Commissioner Matter No. R 98-7.

Statutory Authority for Adoption: RCW 48.02.060, 48.30.010, 48.44.050, 48.46.200.

Statute Being Implemented: RCW 48.30.040, 48.44.110, 48.46.400.

Summary: These proposed rules would simplify mental health benefit descriptions used in advertising by establishing definitions for terms commonly used to describe these benefits.

Reasons Supporting Proposal: Consumers, providers and insurers have all been frustrated with the lack of common terminology. The current confusion caused by the advertising of benefits has led to numerous consumer complaints to the commissioner. These proposed rules would increase the consumer's ability to understand what the advertised benefits mean in terms of what benefit is provided by a plan.

Name of Agency Personnel Responsible for Drafting and Implementation: Don Sloma, Olympia, Washington, (360) 586-5597; and Enforcement: Jeffrey Coopersmith, Olympia, Washington, (360) 664-4615.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The terms and definitions used by health plans in describing their mental health benefits have been the subject of complaints to the commissioner. Consumers and providers of mental health services have been confused about a variety of carrier innovations in managing mental health treatments. Terms are used interchangeably throughout the industry but the [they] may be defined or used to mean many different things. These proposed rules would simplify mental health benefit descriptions used in advertising by establishing definitions for terms commonly used to describe these benefits. This would improve the consumer's ability to understand the benefits provided by a plan and compare those benefits to benefits provided by other plans. These proposed rules do not mandate a mental health benefit or regulate the provisions of a benefit that a plan may include. These proposed rules focus on the advertising of a mental health benefit if such a benefit is included and is advertised. The rules would help prevent the possibility of an issuer knowingly or unknowingly using false, misleading or deceptive advertising of a mental health benefit.

Proposal Changes the Following Existing Rules: WAC 284-43-130 is amended to add definitions.

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

Small Business Economic Impact Statement

Introduction: This report analyzes a proposal to amend existing rules and add new sections regarding the advertising of mental health benefits. These changes are proposed in an effort to make the rules more current, effective, and efficient. This evaluation is completed to demonstrate that the proposed changes improve the rules without imposing disproportionate costs on small businesses.

Background: The proposed rules aid in clarifying an existing regulation, WAC 284-50-010/284-50-230. The regulation was adopted in 1973 and establishes a framework for regulating the advertisement of health insurance.

Consumers, state agencies, providers, and insurers alike have struggled with the terminology surrounding mental health care. Different parties use the same terms with different meanings. Consumers were confused by what the policy was supposed to offer and what it actually did provide. The commissioner received numerous complaints in this area from the public. The commissioner held an open public forum and listened to interested parties. This forum was broadcast throughout the state on TVW. After hearing the concerns associated with this subject, the commissioner decided to review the rules in this area as a part of the regulatory improvement process and see if consumers could be better served.

The commissioner established a working group composed of health care service contractors, health maintenance organizations, mental health providers, mental health advocacy organizations, mental health "carve-out companies," interested state agencies, and consumers. This group held eight public meetings and discussed how the consumers could better understand exactly what benefits the product being advertised actually contains. The rules do not mandate or prescribe mental health benefits but merely bring some certainty and standards to the advertising of offered benefits to better inform consumers and avoid potentially false or misleading advertising. Many ideas were discussed. The proposed rules are a result of the refinement of ideas over time by a diverse group of concerned parties.

The proposed changes should clarify existing requirements and insurers should find it easier to comply with the processes. The existing regulatory scheme will be strengthened, clarified, and streamlined.

Federal and Other State Law: This rule does not conflict with any other federal or state law.

Industry Codes: These proposed rules will apply to health insurance sold in the state of Washington that have a mental health benefit and choose to advertise it. The proposed rules will affect Hospital and Medical Plans (industry code 6324).

Industry Involvement: Many of the substantive issues and concepts have been discussed with members of the regulated industry. Businesses that will be affected by the proposed rules were invited to provide input to the commis-

sioner's staff throughout the rule-writing process. A preproposal statement of inquiry (CR-101) was filed for the rule on March 17, 1998. The CR-101 was sent to all health insurers and was posted on the commissioner's website. Notification that the commissioner would be reviewing this area in the regulatory improvement process was also posted on the commissioner's website.

The commissioner established a working group composed of health care service contractors, health maintenance organizations, providers, advocacy organizations, "carve-out companies," interested state agencies, and consumers. A mailing list was created prior to the establishment of the workgroup and all parties on that list were kept apprised of all meetings and activities. Any party that asked to be on that mailing list was welcome and the list grew to approximately seventy parties. Several members of industry were active participants in the workgroup, others choose to be apprised via the mailing list. Industry associations were also on the mailing list to enable industry to be represented in that fashion also.

The workgroup met eight times and developed the framework for the rules. All ideas were considered and the group decided that these concepts would be the most beneficial. Proposed draft language was reviewed and critiqued by the group. Many of the concepts and much of the language and changes to earlier drafts of the language were suggested by members of the regulated industry.

Probable Costs: The proposed rules may impose some costs on the regulated industry. The information requested is already widely available from the issuers in various forms but there will be some cost for the issuers to ensure that information the plans that provide mental health benefits meet the requirements of these rules.

Additional costs could be incurred by adding a listed phone number in the required materials that would allow consumers to ask the issuer about the mental health benefits of a plan. Industry members already have staff time dedicated to answering consumer questions about mental health benefits, this phone number will enable consumers to go directly to an employee who can address their issues. Any increase in staff time due to additional calls will lead to better informed consumers. This will take on a preventive role by avoiding possible conflicts or grievances by consumers at later stages and should save money for the issuers. The line should have some nominal costs to the issuers if a new line needs to be added or an existing line is rerouted for the purposes of this rule.

There are no additional reporting requirements associated with these rules. As with any printed piece of advertising, the insurers would have to maintain the records of the advertisement (WAC 284-50-200). The information created for these rules is generally provided in some amount in some fashion currently. Any new materials will replace existing materials. There may be some additional cost in maintaining records though.

Small Business Impact: The proposed rules do not impose a disproportionately higher economic burden on small business within the four-digit classifications. It is probable that small businesses will have an easier time and have a smaller economic burden in complying than larger busi-

nesses. A document must be created that details the mental health benefit of the plan that is advertised (again, if there is no mental health benefit in the plan, these rules do not apply). Smaller businesses have fewer plans and will require less time to review their plan(s), create the documents to comply, and fulfill any administrative, record-keeping or organizational requirements necessary to comply. The more numerous plans offered, the greater the amount of time necessary to review the plans to ensure compliance. Additionally, any small business has the option of allowing the Insurance Commissioner to categorize the benefits in any plan (detailed in the Mitigation section). This would eliminate costs associated with reviewing plans and developing materials.

Mitigation: Mitigation to reduce the economic impact of the proposed rules on small business was considered and acted upon. The commissioner worked with representatives of the industry to limit costs as much as possible while retaining the efficacy of the rules. The workgroup sought to craft language that would ensure that an issuer would not have to make available these materials in combination with every advertisement. Instead, the materials need only be presented one time.

The content of the rules also evolved with the participation of members of industry. The questions and list of answers were developed by the workgroup. Industry involvement enabled mitigatory steps to be taken early on in the process. The questions that are asked were developed to present the most useful information in the least costly manner. Some questions were altered because it would be too costly or time-consuming for carriers to develop the responses. The workgroup developed a list of answers to the questions to be used to describe the benefit. Industry will not have to analyze work on answers but can choose the answer that best describes the plan.

Another mitigatory measure suggestion is to allow the issuer to use a "code word" or standardized term to describe their mental health benefit instead of providing answers to the required questions. The term would have provided the consumer with a quick general standard. There are three levels: Level A; Level B; and Level C. A carrier could request the commissioner to publish a document that categorized any of their plans, the commissioner would do so and the carrier would submit that document to consumers instead of the required materials. This system could save industry much of the time and money in developing materials for any carrier that elects to use it.

An additional mitigatory measure is to delay the effective date of these rules to enable the issuers to have ample time to prepare the necessary information and to use up their available stocks of related information. The rules would not apply to contracts issued before June 30, 1999. The commissioner will consider changing this if industry illustrates that more time would be advantageous.

These mitigatory measures should reduce costs on all businesses, particularly small businesses.

Conclusion: These rules should not have a disproportionate impact on small businesses. Costs and administrative concerns should be proportionate to the size of the business or may even be greater for the larger businesses. The information is similar to information that carriers currently make

available in some form to consumers, it will be presented in terms and in a method to make it more understandable and useful to the consumer. Mitigatory measures have lessened possible impacts on all businesses, including small businesses. Flexibility in the rules also enable the carriers to significantly lessen possible administrative and compliance costs if they choose to have the Insurance Commissioner review and categorize their benefit.

A copy of the statement may be obtained by writing to Kacy Brandeberry, Administrative Rules Coordinator, P.O. Box 40255, Olympia, WA 98504-0255, phone (360) 664-3784, fax (360) 664-2782.

RCW 34.05.328 applies to this rule adoption.

Hearing Location: Insurance Building, 14th and Water Street, 2nd Floor Conference Room, on February 23, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by February 22, 1998 [1999], TDD (360) 407-0409.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, Internet e-mail KacyB@oic.wa.gov, fax (360) 664-2782, by February 22, 1999.

Date of Intended Adoption: March 15, 1999.

January 7, 1999

Greg J. Scully

Chief Deputy Insurance Commissioner

AMENDATORY SECTION (Amending Order R 97-3, filed 1/22/98, effective 2/22/98)

WAC 284-43-130 Definitions. Except as defined in other subchapters and unless the context requires otherwise, the following definitions shall apply throughout this chapter.

(1) "Advertisement" means:

(a) Printed and published material, audio visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, television scripts, billboards, and similar displays, or used on or accessible via the Internet, (including, but not limited to, the World Wide Web, usegroups on the Usenet or elsewhere, chat groups or rooms, and mailing lists or "listservs" or other discussion groups) or used on or accessible via any other telecommunications resources, or otherwise available to the public; or

(b) Descriptive literature and sales aids of all kinds issued by an insurer, agent, or broker for presentation to members of the insurance buying public, including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters, and all materials on or accessible via the Internet (including, but not limited to, the World Wide Web, newsgroups on the Usenet or elsewhere, chat groups or rooms, and mailing lists or "listservs" or other discussion groups) or used on or accessible via any other telecommunications resources, or otherwise available to the public; or

(c) Prepared sales talks, presentations, and material for use by agents, brokers, and solicitors,

(2) "Clinical information" means case notes, case records, personalized treatment plans or other written or electronic records for a specific patient which may be kept by a treating mental health provider to aid in diagnosis or treat-

ment, but does not include diagnostic categorization or a record of the number of treatment visits received by a patient.

(3) "Coverage criterion" is an element that may be used to define a covered benefit and whose application may result in exceptions, reductions or limitations. Coverage criteria may include, but are not limited to, definitions of:

(a) Cost effectiveness;

(b) Circumstances where potential health benefits will exceed potential harm of particular treatments;

(c) An explicit exception, reduction or limitation in a covered benefit, regardless of its medical necessity, except as may be prohibited by state or federal law or rule;

(d) An explicit exception, reduction or limitation in any covered benefit provided only for the convenience of an enrollee or provider, where such convenience is unrelated to medical necessity; or

(e) Medical necessity.

(4) "Covered benefits" means:

(a) A health care service to treat a covered health condition according to the terms of any health plan; or

(b) Those health care services to which a covered person is entitled under the terms of a health plan. Unless otherwise required by state or federal rule or law, a covered benefit must be stated as treatment for a covered health condition. A carrier may establish coverage criteria whose application may result in exclusions, reductions or limitations in covered benefits.

((2)) (5) "Covered health condition" means any disease, illness, injury or condition of health risk covered according to the terms of any health plan.

(6) "Covered person" means an individual covered by a health plan including an enrollee, subscriber, policyholder, or beneficiary of a group plan.

((3)) (7) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

((4)) (8) "Emergency services" means otherwise covered health care services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

((5)) (9) "Enrollee point-of-service cost-sharing" or "cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

((6)) (10) "Exception" or "exclusion" means any provision in a health plan whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the health plan. If a coverage criterion results in the exclusion of a benefit, the coverage criterion must be stated when describing the exception.

(11) "Facility" means an institution providing health care services, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers,

diagnostic, laboratory, and imaging centers, and rehabilitation and other therapeutic settings.

~~((7))~~ (12) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding:

(a) Denial of health care services or payment for health care services; or

(b) Issues other than health care services or payment for health care services including dissatisfaction with health care services, delays in obtaining health care services, conflicts with carrier staff or providers, and dissatisfaction with carrier practices or actions unrelated to health care services.

~~((8))~~ (13) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

~~((9))~~ (14) "Health care service" or "health service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

~~((10))~~ (15) "Health carrier" or "carrier" means a disability insurance company regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, and a health maintenance organization as defined in RCW 48.46.020.

~~((11))~~ (16) "Health plan" or "plan" means any individual or group policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care service except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Limited health care service offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(i) Employer-sponsored self-funded health plans;

(j) Dental only and vision only coverage; and

(k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

~~((12))~~ (17) "Independent third-party review" means a review and binding determination regarding a denial of coverage by a carrier, whether on grounds of failing to meet coverage criteria or on grounds of not being a covered benefit for some other reason, by a majority of at least three profession-

als licensed to perform the service denied, who have no direct financial interest in the carrier, the patient, the treating provider, nor any organization that may benefit from the decision to approve or deny coverage.

(18) "Institutional advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of health coverage, or the promotion of a particular health carrier.

(19) "Invitation to inquire" means an advertisement having as its objective the creation of a desire to inquire further about a health plan or health plans and which is limited to a brief description of the loss for which a benefit is payable, and which may contain:

(a) The dollar amount of benefit payable; and/or

(b) The period of time during which the benefit is payable; provided the advertisement does not refer to cost. An advertisement which specifies either the dollar amount of benefit payable or the period of time during which the benefit is payable shall contain a provision in effect as follows:

"For costs and further details of the coverage, including exclusions, any reductions or limitations and the terms under which the plan may be continued in force, see your agent or write to the company."

(20) "Invitation to contract" means an advertisement which is neither an invitation to inquire nor an institutional advertisement.

(21) "Level A mental health coverage" means coverage for medically necessary mental health services that includes:

(a) Direct self referral with no prior screening, assessment, referral or approval by a person other than the treating mental health provider;

(b) The same enrollee point of service cost sharing and visit limits as are required for most medical services covered under the plan;

(c) No exclusions from coverage for medically necessary mental health services;

(d) Coverage for treatment by a broad panel of mental health providers with no enrollee point of service cost sharing differences between providers;

(e) No routine transfer of clinical information from the treating mental health provider to the carrier or any of their agents; and may contain other conditions, limitations, exclusions or reductions explained in the policy that the commissioner determines are consistent with this definition.

(22) "Level B mental health coverage" means coverage for medically necessary mental health services that includes:

(a) No more than one prior screening, assessment, referral or approval by a person other than the treating therapist;

(b) No fewer than twenty medically necessary out-patient visits, and fifteen medically necessary in-patient days per year;

(c) Actual payment for an average of five or more out-patient visits per year, per enrollee requesting such treatment;

(d) Payment of at least sixty percent of the cost of each covered mental health service; or

(e) No exclusions from coverage for medically necessary mental health treatment other than learning disorders, sexual dysfunction, eating disorders and family counseling for marriage or family problems; and may contain other conditions, limitations, exclusions or reductions explained in the policy

that the commissioner determines are consistent with this definition.

(23) "Level C mental health coverage" means any mental health coverage that:

(a) Requires two or more screenings, assessments, referrals or approvals by a person other than the treating therapist prior to treatment;

(b) Allows fewer than twenty medically necessary out-patient visits, or fewer than fifteen medically necessary in-patient days per year;

(c) Provides actual payment for an average of fewer than five out-patient visits per year per enrollee requesting such treatment;

(d) Provides payment for less than sixty percent of the cost of each covered mental health service;

(e) Excludes coverage for medically necessary mental health treatment for conditions other than learning disorders, sexual dysfunction, eating disorders and family counseling for marriage or family problems.

(24) "Limitation" means any provision which restricts coverage under the health plan other than an exception or a reduction. If a coverage criterion results in a limitation, that coverage criterion must be stated when describing the limitation.

(25) "Managed care plan" means a health plan that coordinates the provision of covered health care services to a covered person through the use of a primary care provider and a network.

((13)) (26) "Medical management practices" are the policies and procedures used by a carrier to ensure the medical necessity of a covered benefit, and include, but are not limited to, policies and procedures governing:

(a) Treatment approvals and denials;

(b) Treatment protocols;

(c) Quality assurance activities; and

(d) Utilization management practices.

(27) "Medically necessary" or "medical necessity" is a coverage criterion a carrier may apply to determine whether a health service is a covered benefit if the service:

(a) Is a clinically appropriate choice in the opinion of the enrollee's participating provider;

(b) Has a reasonable probability of achieving the intended clinical outcome, particularly in consideration of expected enrollee compliance with treatment requirements; and

(c) Is consistent with recognized standards within a relevant health profession.

(28) "Mental health provider" means a health care provider or a health care facility authorized by state law to provide mental health services.

(29) "Mental health services" means in-patient or out-patient treatment, partial hospitalization or out-patient treatment to manage or ameliorate the effects of a mental disorder listed in the *Diagnostic and Statistical Manual (DSM) IV* published by the American Psychiatric Association, excluding diagnoses and treatments for substance abuse, 291.0 through 292.9 and 303.0 through 305.9.

(30) "Network" means the group of participating providers and facilities providing health care services to a particular health plan. A health plan network for carriers offering more

than one health plan may be smaller in number than the total number of participating providers and facilities for all plans offered by the carrier.

((14)) (31) "Out-patient therapeutic visit" or "out-patient visit" means a clinical treatment session with a mental health provider of a duration consistent with standards recognized within the mental health profession for the particular service being rendered, as defined in *Physicians Current Procedural Terminology*, published by the American Medical Association.

(32) "Participating provider" and "participating facility" means a facility or provider who, under a contract with the health carrier or with the carrier's contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, from the health carrier rather than from the covered person.

((15)) (33) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

((16)) (34) "Primary care provider" means a participating provider who supervises, coordinates, or provides initial care or continuing care to a covered person, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

((17)) (35) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

((18)) (36) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

((19)) (37) "Reduction" means any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction not been used. If a coverage criterion results in a reduction, that coverage criterion must be stated when describing the reduction.

(38) "Small group" means a health plan issued to a small employer as defined under RCW 48.43.005(24) comprising from one to fifty eligible employees.

NEW SECTION

WAC 284-43-810 Coverage for mental health services. (1) The commissioner may disapprove any contract issued or renewed after June 30, 1999, that includes coverage for mental health services if it does not include the following statement:

MENTAL HEALTH SERVICES AND YOUR RIGHTS

(Health Carrier Name) and state law have established standards to assure the competence and professional conduct of

mental health service providers, to guarantee your right to informed consent to treatment, to assure the privacy of your medical information, to enable you to know which services are covered under this plan and to know the limitations on your coverage. If you would like a more detailed description than is provided here of covered benefits for mental health services under this plan, or if you have a question or concern about any aspect of your mental health benefits, please contact us (the health carrier) at xxx-xxx-xxxx (current phone number).

If you would like to know more about your rights under the law, or if you think anything you received from this plan may not conform to the terms of your contract or your rights under the law, you may contact the Office of Insurance Commissioner at 800-562-6900. If you have a concern about the qualifications or professional conduct of your mental health service provider, please call the State Health Department at xxx-xxx-xxxx (current phone number suggested by State Health Department).

(2) The commissioner may disapprove any contract issued or renewed after June 30, 1999, that includes coverage for mental health services if it does not either:

(a) Pose and respond in writing to the following questions in language that complies with WAC 284-50-010 through 284-50-230 in or accompanying an invitation to contract which is given to each prospective enrollee prior to enrollment; or

(b) In any invitation to contract, identify the mental health coverage offered as level A mental health coverage, level B mental health coverage or level C mental health coverage, state the definition of the term selected, and in the contract, pose and respond in writing to the following questions.

(i) "What are the steps that must be taken to have mental health services paid for by my plan?"

Yes No

Direct self referral to a participating provider, with no prior authorization or approval.

Primary care provider referral required; primary care provider may determine the number of visits.

Preauthorization, predetermination of medical necessity, preverification of benefits and eligibility or referral required.

(ii) "How soon after requesting mental health treatment should I expect to receive my first treatment visit in nonemergency circumstances?"

No more than twenty-four hours.

No more than seventy-two hours.

No more than seven days.

No more than fourteen days.

More than fourteen days.

(iii) "How many visits can I have before clinical information about me is first reviewed by anyone who is not involved in treating me?"

None.

One.

Three.

Five.

Up to the limits of your mental health benefits.

Other.

(iv) "What information about my mental condition will anyone other than my mental health provider see?"

No information, other than your diagnostic category and number of treatments you received.

Diagnostic details.

Treatment codes.

Treatment plans, including expected outcomes.

Progress notes.

Other.

(v) "Do I have to pay more than the co-pay, deductible and other charges for my other covered medical services to get mental health services under this plan?"

Same Less More

Deductibles.

Co-pays.

Co-insurance.

Other cost sharing _____.

(vi) "What is the maximum number of medically necessary in-patient days and out-patient visits I can get each year under this plan?"

Inpatient Outpatient

Days Visits

Less than ten.

Eleven to fifteen.

Sixteen to twenty.

Twenty-one to thirty.

Unlimited.

Other _____.

(vii) "What published guidelines does this plan use to define "medical necessity" with respect to mental health services?"

American Psychiatric Association standards.

American Psychological Association standards.

Other nationwide mental health professional association standards.

State-wide or regional mental health professional association standards (Provide the name).

Other _____.

(viii) "How does the plan work with my mental health provider to determine what treatment is medically necessary for me?"

Opportunity for regular involvement in setting policies and procedures.

PROPOSED

Opportunity for case consultation on individual case determinations of medical need.

Final determination on individual case determinations of medical need.

Other _____.

(ix) "What is the average number of outpatient visits this plan pays for per person seeking these services?" (Note to carriers: This response must state the average outpatient visits per enrollee requesting these services during the most recent year for which data is available. This time period may begin no more than thirty-six months prior to the issue date of the policy being sold.)

- Less than five.*
- Five to ten.*
- Ten to twenty.*
- Twenty-one to thirty.*
- More than thirty.*

(x) "In which of the following circumstances where I might need mental health services would I find them excluded or subject to restrictions or limitations other than medical necessity?"

- Diagnostic testing to determine if a mental disorder exists.*
- A mental disorder has a congenital or physical basis, such as Tourette's Syndrome, or may be partially covered under the medical services portion of the health plan.*
- A court orders treatment.*
- Treatment surrounding self inflicted harm, such as a suicide attempt.*
- There are diagnosed learning disabilities.*
- There is a diagnosed eating disorder.*
- There is a diagnosed mental disorder related to sexual functioning, or a sex change.*
- Couples or marriage therapy.*
- Custodial care.*

(xi) "Do I have to use certain mental health providers to pay the least out of my own pocket under this plan? How can I get a different mental health provider if I want one?"

- I can select one myself within the plan's network at no extra cost.*
- I must be referred to one within the plan's network.*
- I must get a change in mental health providers approved by the plan.*
- I must choose a provider within the plan's network to get the highest payment rate.*
- I must choose a provider within the plan's network to get ANY payment.*

(xii) "If the plan limits payment to some providers, approximately how many in Washington can I use and still pay the least out of my own pocket, what standards

are used to make sure there will be enough of them and how can I find out who they are?"

(xiii) "What are the minimum professional credentials this plan requires for anyone providing, reviewing or approving requests for mental health treatment?"

- Bachelors degree.*
- Masters degree.*
- Doctorate degree.*
- Medical doctor.*
- Other.*

(xiv) "What is this plan's most common goal in financing treatment for depression in adults?"

- Stabilization and symptom management.*
- Return to previous functioning.*
- Ongoing maintenance for long-term illness.*

(xv) "What is this plan's most common goal in financing mental health treatment for anxiety in children?"

- Stabilization and symptom management.*
- Return to previous functioning.*
- Ongoing maintenance for long-term illness.*

(xvi) "Does the plan have a process by which I may obtain a reconsideration of an exclusion, restriction or limitation on coverage?"

Yes No

- An enrollee may request some reconsiderations.*
- A mental health provider must request all reconsiderations.*
- A process exists to consider some reconsiderations before a formal appeal.*
- A formal appeal must be filed to obtain any reconsiderations.*
- An independent, third-party review of denials is allowed.*

(xvii) "Does the plan track the outcome of mental health services it offers?"

Yes No

If so, what measures are systematically tracked and reported to enrollees, providers and management?"

(3)(a) In lieu of meeting the requirements of this section, a health carrier may request that the commissioner publish a document for any of its plans which serves the purposes of this section. Such document will categorize mental health benefits offered in the plan as level A mental health coverage, level B mental health coverage or level C mental health coverage, and will pose and respond to questions contained in subsection (2) of this section.

PROPOSED

(b) No more than thirty days after receipt of the document described in (a) of this subsection, the carrier must provide it to each prospective enrollee considering enrollment in a health plan that covers mental health services.

Date of Intended Adoption: March 9, 1999.

January 7, 1999
 Gloria A. McDonald
 Rules Coordinator

WSR 99-03-011
PROPOSED RULES
WESTERN WASHINGTON UNIVERSITY

[Filed January 8, 1999, 11:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-20-041.

Title of Rule: Chapter 516-13 WAC, Bicycle traffic and parking regulations and chapter 516-15 WAC, Skateboards and in-line skates.

Purpose: Changes in these rules to provide for enforcement of these regulations as infractions within the university administrative structure rather than as criminal offenses in district court.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Dave Doughty, University Police, Western Washington University, Bellingham, Washington, (360) 650-3674; Implementation and Enforcement: James Shaw, University Police, Western Washington University, Bellingham, Washington, (360) 650-3555.

Name of Proponent: Western Washington University, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The changes in these rules are to provide for enforcement of the regulations as infractions within the university administrative structure rather than as criminal offenses in the district court system.

Proposal Changes the Following Existing Rules: Changes as stated in Explanation of Rule above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. None needed, financial or economic impact is minimal.

RCW 34.05.328 does not apply to this rule adoption. Rules relate to internal governmental operations.

Hearing Location: Old Main 340, Western Washington University Campus, 516 High Street, Bellingham, WA 98225, on March 4, 1999, at 3 p.m.

Assistance for Persons with Disabilities: Contact Dave Doughty by March 3, 1999, TDD (360) 650-3123, or (360) 650-3684.

Submit Written Comments to: Dave Doughty, University Police, Mailstop 9070, Western Washington University, Bellingham, Washington 98225, fax (360) 650-3676.

AMENDATORY SECTION (Amending WSR 96-24-015, filed 11/22/96, effective 1/1/97)

WAC 516-15-050 Enforcement. A person using a skateboard, coaster, in-line skates, toy vehicle, or similar device who refuses to abide by ~~((these)) the rules and regulations ((will be asked to leave the campus. Refusal to obey will subject the person to being cited for trespass under the provisions of chapter 9A.52 RCW.~~

~~If the user is a student, the student will be asked to remove the skateboard, coaster, in-line skates, toy vehicle, or other similar device from use on campus. If the student refuses, a proceeding may be initiated under chapter 516-22 WAC, the student rights and responsibilities code)) set forth under chapter 516-15 WAC may be issued a university notice of infraction (NOI) for using a skateboard, coaster, in-line skates, toy vehicle, or similar device on campus in an area not designated for such use.~~

Penalties: The penalties for violating any part of this section shall be progressive, with the monetary penalty increasing for each subsequent offense. The first violation shall have a monetary penalty of ten dollars. A second violation shall have a monetary penalty of fifty dollars.

Any person who violates any portion of this section and as a result is involved in a collision with a pedestrian or an object shall have the monetary penalty for the offense doubled.

Any person using a skateboard, coaster, in-line skates, toy vehicle, or similar device who attempts to elude a uniformed police officer attempting to enforce these regulations shall have the monetary penalty for the offense doubled.

Appeal procedure. A university notice of infraction (NOI) may be appealed by filing a completed appeal form at the parking services office within seven days of receipt of the notice of infraction; otherwise, the right to a hearing is forfeited.

AMENDATORY SECTION (Amending WSR 96-24-016, filed 11/22/96, effective 1/1/97)

WAC 516-13-090 Enforcement. A bicycle rider who refuses to abide by these regulations ~~((will be asked to leave the campus. A person who refuses to obey the request is subject to being cited for criminal trespass under the provisions of chapter 9A.52 RCW. If a student refuses to abide by these regulations, a proceeding may be initiated under chapter 516-23 WAC, the Student Rights and Responsibilities Code. Enforcement described in this chapter does not preclude other established university disciplinary procedures)) set forth under WAC 516-13 may be issued a university notice of infraction (NOI) for one or more of the following infractions:~~

- (1) Failure to yield right of way to pedestrian;
- (2) Failure to stay in control of bicycle;
- (3) Failure to obey dismount policy;
- (4) Riding on lawn or other restricted area;

PROPOSED

(5) Failure to use due care and caution.

Penalties: The penalties for violating any part of this section shall be progressive, with the monetary penalty increasing for each subsequent offense regardless of the nature of the previous offense(s). The first violation shall have a monetary penalty of ten dollars. A second violation shall have a monetary penalty of twenty-five dollars. A third and each subsequent violation shall have a monetary penalty of fifty dollars.

Any bicycle rider who violates any portion of this section and as a result is involved in a collision with a pedestrian or an object shall have the monetary penalty for the offense(s) doubled.

Any bicycle rider who attempts to elude a uniformed police officer attempting to enforce these regulations shall have the monetary penalty for the offense(s) doubled.

Chapter 516-13 WAC notwithstanding, bicycle riders remain subject to enforcement of applicable city and state traffic laws while riding upon public roadways or sidewalks.

A bicycle rider who refuses to cooperate with a police officer or to present proof of identification will be subject to arrest for obstructing a law enforcement officer under the provisions of chapter 9A.76 RCW and/or criminal trespass under the provisions of chapter 9A.52 RCW.

Appeal procedure. A university notice of infraction (NOD) may be appealed by filing a completed appeal form at the parking services office within seven days of receipt of the notice of infraction; otherwise, the right to a hearing is forfeited.

Distribution of funds collected from monetary penalties. Moneys collected for violations of chapter 516-13 WAC shall be applied towards the cost of enforcing this section. Moneys received in excess of these costs shall be applied towards bicycle-related projects, including bicycle parking, bicycle pathways and safe bicycling education.

WSR 99-03-026

**WITHDRAWAL OF PROPOSED RULES
STATE BOARD OF EDUCATION**

(By the Code Reviser's Office)

[Filed January 12, 1999, 8:36 a.m.]

WAC 180-27-082 and 180-27-083, proposed by the State Board of Education in WSR 98-14-149 appearing in issue 98-14 of the State Register, which was distributed on July 15, 1998, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 99-03-037

PROPOSED RULES

INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 98-7—Filed January 14, 1999, 3:15 p.m.]

Continuance of WSR 99-03-007.

Title of Rule: Mental health benefits.

Other Identifying Information: Insurance Commissioner Matter No. R 98-7.

Summary: Change of hearing location and time.

Hearing Location: General Administration Building, 11th and Columbia, Olympia, Washington, on February 23, 1999, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by February 22, 1999, TDD (360) 407-0409.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, Internet e-mail KacyB@oic.wa.gov, fax (360) 664-2782.

Date of Intended Adoption: March 15, 1999.

January 13, 1998 [1999]

Robert A. Harkins

Deputy Insurance Commissioner

WSR 99-03-038

PROPOSED RULES

INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 98-6—Filed January 14, 1999, 3:19 p.m.]

Continuance of WSR 99-03-006.

Title of Rule: Pharmacy benefits standards.

Other Identifying Information: Insurance Commissioner Matter No. R 98-6.

Summary: Change of hearing location and time.

Hearing Location: General Administration Building, 11th and Columbia, Olympia, Washington, on February 23, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by February 22, 1999, TDD (360) 407-0409.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, Internet e-mail KacyB@oic.wa.gov, fax (360) 664-2782.

Date of Intended Adoption: March 15, 1999.

January 13, 1999

Robert A. Harkins

Deputy Insurance Commissioner

WSR 99-03-049

PROPOSED RULES

**YAKIMA REGIONAL
CLEAN AIR AUTHORITY**

[Filed January 15, 1999, 11:41 a.m.]

Continuance of WSR 99-01-033.

Title of Rule: Regulation I of the Yakima Regional Clean Air Authority - 1999.

PROPOSED

Purpose: Continue public hearings due to public interest and add a public workshop on February 3, 1999.

Hearing Location: Room 420, Yakima County Courthouse, 128 North 2nd Street, Yakima, WA 98901-2631, on February 17, 1999, at 2 p.m.

Assistance for Persons with Disabilities: Dema Harris by 12 noon, (509) 574-2215.

Submit Written Comments to: Yakima Regional Clean Air Authority, Six South Second Street, Suite 1016, Yakima, WA 98901, fax (509) 574-1411, by February 10, 1999.

Date of Intended Adoption: February 17, 1999.

January 14, 1999

Les Ornelas

Air Pollution Control Officer

WSR 99-03-073

PROPOSED RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Commission Docket No. A-980085—Filed January 19, 1999, 12:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-14-138.

Title of Rule: Revising rules relating to securities, liens, affiliated interests, refunding of notes, and lease of utility facilities.

Purpose: To implement the requirements of Executive Order 97-02, requiring agencies to review significant rules for need; effectiveness and efficiency; clarity; intent and statutory authority; cost and fairness. The proposal would repeal the existing rules, reorganize and rewrite the substance of the text for compliance with Executive Order 97-02, and promulgate new sections incorporating the redrafted provisions. In addition, the proposal adds provisions to set existing policies in rules, updates definitions, and deletes obsolete provisions.

Statutory Authority for Adoption: RCW 80.01.040 and 80.04.160.

Summary: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Kathy Folsom, 1300 South Evergreen Park Drive S.W., Olympia, WA 98503, (360) 664-1279; Implementation and Enforcement: Carole J. Washburn, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98503 [98504], (360) 664-1174.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules address how the Washington Utilities and Transportation Commission regulates securities, liens, affiliated interests, refunding of notes, and lease of utility facilities transactions of regulated companies. This review is in compliance with Executive Order 97-02 and reviews the chapter for clarity, intent and statutory authority, need, effectiveness and efficiency, coordination, cost and fairness. This proposal would redraft the rules to comply with the executive

order, would incorporate and formalize policies, and would eliminate rules that are obsolete.

Proposal Changes the Following Existing Rules: The proposal would repeal existing rules and substitute reorganized and redrafted rules. The proposed substantive changes to rule text include the following: (1) Deleting and adding definitions as needed; (2) clarifying requirements relating to statements and applications; and (3) clarifying reporting requirements for securities and affiliated interest transactions.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules will have minimal fiscal impact on regulated companies or the industry.

RCW 34.05.328 does not apply to this rule adoption. The commission is not an agency to which RCW 34.05.328 applies.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on February 26, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Pat Valentine-Hazzard by February 18, 1999, TDD (360) 586-8203, or (360) 664-1133.

Submit Written Comments to: Carole J. Washburn, Secretary, P.O. Box 47250, Olympia, WA 98504 or e-mail to records@wutc.wa.gov, fax (360) 586-1150, by February 12, 1999. Please include Docket No. A-980085 in your communication.

Date of Intended Adoption: February 26, 1999.

January 13, 1999

Terrence Stapleton
for Carole J. Washburn
Secretary

NEW SECTION

WAC 480-146-240 Application of rules. These rules apply to any public service company which meets the requirements for commission regulation or jurisdiction under RCW 80.04.010. The rules do not apply to a local exchange company that serves less than two percent of the access lines in the state of Washington.

The commission may waive or modify the application of any rule to a public service company upon written request or upon the commission's own motion, except when such provisions are fixed by statute. The waiver or modification must be approved by the commission in writing. Violations of these rules will be subject to the penalty provisions of chapter 80.04 RCW.

NEW SECTION

WAC 480-146-250 Filing. Any filing under these rules must be made at the commission by mail or in person.

NEW SECTION

WAC 480-146-260 Statements and applications. Any public service company that issues stocks, stock certificates,

PROPOSED

other evidence of interest or ownership, bonds, notes, or other evidence of indebtedness must file a statement with the commission. A corporation formed by a merger or consolidation which issues securities must also file a statement with the commission. Statements must include:

- (1) A description of the purposes for which the issuance is made, including a certification by an officer authorized to do so that the proceeds from any such financing is for one or more of the purposes allowed by RCW 80.08.030;
- (2) A description of the proposed issuance including the terms of the financing; and
- (3) A statement as to why the transaction is in the public interest.

Any public service company making such a filing may request from the commission a written order affirming that the public service company has complied with the requirements of RCW 80.08.040. For purposes of this chapter, a request for such an order is termed an application.

NEW SECTION

WAC 480-146-270 Filing requirements for securities statements and applications. The applicant must submit all information required to comply with the requirements of RCW 80.08.040 and any additional information deemed necessary by the commission. The applicant, authorized representative, or applicant's attorney must sign and date the statement and include a certification that the information is true and correct to the signer's information and belief, under penalties of perjury as set forth in RCW 9A.72.085. When an applicant requests an order affirming compliance with RCW 80.08.040 it must submit a draft order.

NEW SECTION

WAC 480-146-280 Commission may require additional information. The commission may require the applicant to file or provide pertinent information in addition to that specified by statute or in these rules.

NEW SECTION

WAC 480-146-290 Applicant may include information by reference. When any information required to support an application is on file with the commission, it is sufficient for the applicant to make specific reference to the information indicating the proceeding, report, or other filing that contains the referenced information.

NEW SECTION

WAC 480-146-300 Applicant duty when information is unavailable. If any required information is unavailable at the time of the application, the applicant must include with the application the reason why the information is not available and state when it will be available.

NEW SECTION

WAC 480-146-310 Commission may set application or statement for public hearing. The commission will act upon a complete, filed application or statement as promptly as possible. The commission may consider the application or statement without public hearing or can order a hearing.

NEW SECTION

WAC 480-146-320 Reporting of affiliated interest transactions. (1) Every public service company, as defined in the application of rules WAC 480-146-240, must file with the commission by June 1 of every year an annual report of all affiliated interest transactions which occurred during the period of January 1 through December 31 of the preceding year.

"Affiliated interest transactions" mean contracts or arrangements between affiliated interests as defined in RCW 80.16.010.

(2) The annual report must contain the following information:

(a) A description of the products or services flowing between the public service company and any affiliated interest;

(b) A description of the pricing basis or costing method and procedures for allocating costs for such products or services rendered, and the amount and accounts charged;

(c) A description of the terms of any loans between the public service company and its affiliate and a listing of the year end loan amounts and maximum loan amounts outstanding during the year;

(d) A description of the terms and maximum amount of any debt guarantees by the public service company for any affiliate and a listing of the year end debt amounts and maximum debt amounts outstanding during the year;

(e) A corporate organization chart of the public service company and its affiliates and a detailed description of the activities of the affiliates with which the public service company has transactions;

(f) A list of all common officers and directors of the affiliated interest company and the public service company along with their titles in each organization, and;

(g) Appropriate financial information for each affiliated interest company including, but not limited to, a balance sheet and income statement.

The commission may request any additional information during its review of the public service company's annual report of affiliated interest transactions.

(3) The annual report required by this section will supersede the reporting requirements contained in previous commission orders authorizing affiliated interest transactions pursuant to chapter 80.16 RCW.

(4) The public service company is obligated to file verified copies of affiliated interest contracts and arrangements as stated in WAC 480-146-XXX.

PROPOSED

NEW SECTION

WAC 480-146-330 Form of lease application. A public service company must file an application containing the terms of a lease of utility facilities, as lessee, in the following form:

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

IN THE MATTER OF THE APPLICATION OF (insert name) FOR AN ORDER APPROVING THE LEASE OF UTILITY FACILITIES.
.....

No.

(Number to be inserted by Secretary of Commission)

Application is hereby made to the Washington Utilities and Transportation Commission for an order authorizing the lease of utility facilities. The following general information and exhibits are furnished in support:

GENERAL INFORMATION

1. Name of applicant.
2. Address of principal office of applicant.
3. Name and address of attorney or agent.
4. State or states under which applicant is organized and form of organization.
5. A general description of the property owned by applicant and the field of its operations.

EXHIBIT "A"

A statement by applicant certifying that the requested approval is necessary or appropriate to exempt any owner of the facilities from being a public utility company under the federal Public Utility Holding Company Act of 1935.

EXHIBIT "B"

Detailed unconsolidated balance sheet as of three months before the date the application is filed, and a pro forma balance sheet as of the same date showing the effect of the proposed lease. Indicate separately the amount of intangibles and the amount reflected in plant acquisition adjustment account if such items are included in the fixed capital or utility plant accounts of the balance sheet.

EXHIBIT "B-1"

(A) Detailed income and profit and loss statement for the twelve months ended as of the date of the balance sheet submitted as Exhibit "B."

(B) Reconciliation of the retained earnings account for the period covered by the income and profit and loss statement. Retained earnings should be segregated from other surplus accounts.

EXHIBIT "C"

1. A description of the property which is to be leased.
2. The historical or original cost of the property to be leased and the related accrued depreciation. (Estimated in both cases if actual amounts are not known.)
3. The amount of contributions in aid of construction.
4. Terms of the lease.

EXHIBIT "D"

Economic and financial justification for entering into the proposed lease including a lease versus purchase analysis.

EXHIBIT "E"

Show such other facts that may be pertinent to the application.

WHEREFORE, the undersigned applicant requests that the Washington Utilities and Transportation Commission make its order granting to such applicant its application.

DATED at, THIS DAY OF, 19

.....
(Applicant)

By
Title

NEW SECTION

WAC 480-146-340 Minimum time required for commission order. A public service company must submit an application, except as provided in WAC 480-146-XXX, at least fifteen working days prior to the requested effective date for a commission order. The fifteen day period will start once the applicant has filed with the commission all information and exhibits required by WAC 480-146-XXX.

NEW SECTION

WAC 480-146-350 Supplemental filings may be exempt from time limitations. Supplemental filings made:

- (1) To comply with a previous order;
- (2) To change the terms and conditions of a previous order; or
- (3) To request that flaws in a previous order must be corrected are exempt from WAC 480-146-XXX.

NEW SECTION

WAC 480-146-360 Reporting of securities transactions. (1) A public service company must file a letter with the commission outlining the final terms and conditions of the transaction, within thirty days after the issuance of any of the following:

- (a) Stock;
- (b) Stock certificates;
- (c) Other evidence of interest or ownership;
- (d) Bonds;
- (e) Notes; or

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(f) Other evidences of indebtedness.

(2) Every public service company, as defined in the application of rules WAC 480-146-240, that has issued securities during the prior year, must file with the commission by April 1 of each year an annual securities transaction report. At a minimum, the report must contain:

- (a) A detail of the final agreements;
- (b) A description of the use of proceeds;
- (c) The level of expenses for each of the securities transactions for the year ending December 31;
- (d) Information to determine the individual and collective impact on capital structure;
- (e) The pro forma cost of money for the securities transactions.

(3) Any public service company that is not required to file an annual report must maintain complete records of any securities transactions as outlined in subsection (2) of this section. The commission may request any information as it determines necessary.

NEW SECTION

WAC 480-146-370 Filing of affiliated interest transactions. Every public service company must file a verified copy, or a verified summary, if unwritten, of contracts or arrangements with affiliated interests before the effective date of the contract or arrangement. Verified copies of modifications or amendments to the contract or arrangements must be filed before the effective date of the modification or amendment. If the contract or arrangement is unwritten, then a public service company must file a verified summary of any amendment or modification.

NEW SECTION

WAC 480-146-380 Application for approval of lease of utility facilities. The applicant must certify that the requested approval of lease of utility facilities is necessary to exempt any owner of the facilities from being a public utility company under the Public Utility Holding Company Act of 1935. A filing for approval of lease of utility facilities must be submitted in the form of lease application WAC 480-146-330.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-146-010	Filing.
WAC 480-146-020	Requests, applications, and statements.
WAC 480-146-030	General contents.
WAC 480-146-040	Additional information.
WAC 480-146-050	Material incorporated by reference.
WAC 480-146-060	Conditions for public hearing.

WAC 480-146-070	Procedure for merger or consolidation.
WAC 480-146-080	Form of securities application.
WAC 480-146-090	Form of affiliated interest application.
WAC 480-146-091	Reporting of affiliated interest transactions.
WAC 480-146-095	Form of lease application.
WAC 480-146-200	Minimum time required for commission order.
WAC 480-146-210	Supplemental filings exempt from time limitations.
WAC 480-146-220	Waiver of time limitations.
WAC 480-146-230	Reporting of securities transactions.

WSR 99-03-074

PROPOSED RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Commission Docket No. A-980084—Filed January 19, 1999, 12:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-14-137.

Title of Rule: Revising rules relating to transfers of property.

Purpose: To implement the requirements of Executive Order 97-02, requiring agencies to review significant rules for need; effectiveness and efficiency; clarity; intent and statutory authority; cost and fairness. The proposal would repeal the existing rules, reorganize and rewrite the substance of the text for compliance with Executive Order 97-02, and promulgate new sections incorporating the redrafted provisions. In addition, the proposal adds provisions to set existing policies in rules, adds a provision requiring customer notice for transfers relating to mergers and consolidations, updates definitions, and deletes obsolete provisions.

Statutory Authority for Adoption: RCW 80.01.040 and 80.04.160.

Summary: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Kathy Folsom, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1279; Implementation and Enforcement: Carole J. Washburn, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1174.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules address how the Washington Utilities

PROPOSED

and Transportation Commission regulates transfer of property transactions of regulated companies. This review is in compliance with Executive Order 97-02 and reviews the chapter for clarity, intent and statutory authority, need, effectiveness and efficiency, coordination, cost and fairness. This proposal would redraft the rules to comply with the executive order, would incorporate and formalize policies, would add requirements for customer notice for mergers or consolidations, and would eliminate rules that are obsolete. The proposed rules will require commission determination that a property is not necessary or useful if the property to be disposed of has a market value that exceeds the greater of .1% of rate base or \$20,000. The proposal will also codify commission policy on customer notice requirements whenever a public service company merges or consolidates any of its franchises, property or facilities with any other company. The proposed rule is intended to provide the public with timely notice and full disclosure of any information which may have impact.

Proposal Changes the Following Existing Rules: The proposal would repeal existing rules and substitute reorganized and redrafted rules. The proposed substantive changes to rule text include the following: (1) Deleting and adding definitions as needed; (2) adding requirements for companies to file customer notice for mergers and consolidations; and (3) adding provisions to clarify requirements relating to the disposal of necessary or useful property.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules will have minimal fiscal impact on regulated companies or the industry.

RCW 34.05.328 does not apply to this rule adoption. The commission is not an agency to which RCW 34.05.328 applies.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on February 26, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Pat Valentine-Hazzard by February 18, 1999, TDD (360) 586-8203, or (360) 664-1133.

Submit Written Comments to: Carole J. Washburn, Secretary, P.O. Box 47250, Olympia, WA 98504 or e-mail to records@wutc.wa.gov, fax (360) 586-1150, by February 12, 1999. Please include Docket No. A-980084 in your communication.

Date of Intended Adoption: February 26, 1999.

January 13, 1999

Terrence Stapleton
for Carole J. Washburn
Secretary

NEW SECTION

WAC 480-143-100 Application of rules. These rules apply to any public service company which meets the requirements for commission regulation or jurisdiction under RCW 80.04.010. The rules do not apply to a local exchange

company that serves less than two percent of the access lines in the state of Washington.

The commission may waive or modify the application of any rule to a public service company upon written request or upon the commission's own motion, except when such provisions are fixed by statute. The waiver or modification must be approved by the commission in writing. Violations of these rules will be subject to the penalty provisions of chapter 80.04 RCW.

NEW SECTION

WAC 480-143-110 Filing. Any filing under these rules must be made at the commission by mail or in person.

NEW SECTION

WAC 480-143-120 Transfers of property. A public service company may not complete a transfer of property necessary or useful to perform its public duties unless the company first applies for, and obtains, commission approval. Transfers include sale, lease, assignment of all or part of a public service company's property, and merger or consolidation of a public service company's property with another public service company. Certain telephone utility leases are exempt under WAC 480-143-200. Applications must describe transfers in detail and must include the public service company's current financial statements and copies of all transfer instruments.

NEW SECTION

WAC 480-143-130 Purchase of property. A public service company may not acquire any franchise, property, facility, capital stock, or bonds of another public service company unless it first applies for, and obtains, commission approval. Applications must describe the proposed acquisitions in detail and include the public service company's current financial statements and copies of all transfer instruments.

NEW SECTION

WAC 480-143-140 General contents. Applicants must state all facts that support each application. Each application must be dated and signed by the applicant, the applicant's authorized representative, or the applicant's attorney. Whoever signs the application must certify the information it includes is true and correct to the best of the signer's information and belief under penalty of perjury as set forth in RCW 9A.72.085.

NEW SECTION

WAC 480-143-150 Statement required for nonpublic service company purchases. If a company other than a public service company proposes to acquire franchises, property, or facilities from a public service company, the commission may require a sworn statement from the purchaser that

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includes any resulting changes in rates, services, or equipment which may affect the public interest.

NEW SECTION

WAC 480-143-160 Public hearing. The commission will examine all applications for transfers and accompanying exhibits. The commission may set an application for hearing and require all parties to the transaction to appear and give testimony.

NEW SECTION

WAC 480-143-170 Application in the public interest. If, upon the examination of any application and accompanying exhibits, or upon a hearing concerning the same, the commission finds the proposed transaction is not consistent with the public interest, it will deny the application.

NEW SECTION

WAC 480-143-180 Disposal and determination of necessary or useful property. A public service company must not dispose of any property necessary or useful to perform its public duties unless it first applies for, and obtains, written authority from the commission.

Necessary or useful includes all property except items which either:

- (1) Are substituted with or replaced by items of equal or greater value or usefulness;
- (2) Are surplus and unneeded assets for which full value is received;
- (3) Are obsolete; or
- (4) Are excluded from the public service company's rate base by commission order, or otherwise.

The public service company must file an application for commission determination that any property is not necessary or useful, prior to disposing of such property, if the property to be disposed of has a market value which exceeds the greater of .1% of the public service company's rate base last established by commission order, or \$20,000.

NEW SECTION

WAC 480-143-190 Annual filing of property transferred without authorization. Every public service company must file with the commission by March 1 of each year a detailed list of all items transferred without commission approval during the previous calendar year except items whose fair market value is less than the greater of .01% of the public service company's last rate base established by commission order or two thousand dollars. The public service company must attach an affidavit by a responsible officer qualified to state none of the items were necessary or useful to perform the public service company's public duties and that the public service company received fair market value for each item.

NEW SECTION

WAC 480-143-200 Certain telephone leases are exempt. A telephone utility may lease its properties to another telephone utility without prior commission approval if:

- (1) The properties are not essential to the lessor's provision of telephone service;
- (2) The properties are used to transmit interexchange messages between subscribers of different utilities;
- (3) The lease expedites economical exchange; and
- (4) A copy of the lease agreement is kept in the lessor's office.

NEW SECTION

WAC 480-143-210 Transfer customer notice requirements. (1) The public service company must provide notice to customers thirty days before the commission's open meeting date when the application is scheduled for action whenever a public service company merges or consolidates any of its franchises, property or facilities with any other company.

(2) A draft customer notice must be submitted to the commission for review at least one week prior to the public service company's planned printing date for distribution.

(3) The public service company must provide a final copy of the notice to the commission.

(4) Content of notice. The notice to customers must contain, at a minimum, the following:

COMPANY NAME
ADDRESS
PHONE NUMBER

DATE

IMPORTANT NOTICE

(Company Name) has asked the Washington Utilities and Transportation Commission for authorization to transfer ownership and operation of **(name of company being sold)** to **(name of company buying)**. This transfer is contingent upon approval by the Washington Utilities and Transportation Commission.

(Give background information about the new owner, for example, how many years in business, etc.)

If you have questions about this request and how it will affect you, please call **(company name & office phone number)**. If you have questions about the approval process, you may contact the Washington Utilities and Transportation Commission at the following address:

Secretary
Washington Utilities & Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250
1-800-562-6150 (toll-free)

If you would like to comment on this proposal, it is important for you to do so now. Comments must be submitted in writ-

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ing or presented at the commission's open meeting to be considered as part of the formal record. The commission encourages your written comments, either in favor or opposition, regarding this proposal. All open meetings are held in Olympia, WA. If you would like to be added to the commission's mailing list to be notified of the open meeting date please call the toll-free number listed above and leave your name and complete mailing address.

Sincerely,
Company Name/Representative

(5) The commission may require additional notice to the public as it determines necessary.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 480-143-010 Sale, lease or assignment of property.
- WAC 480-143-020 Purchase of property.
- WAC 480-143-030 Statement required of a non-utility.
- WAC 480-143-040 Public hearing.
- WAC 480-143-050 Transaction must be consistent with public interest.
- WAC 480-143-060 Definition of property not necessary or useful.
- WAC 480-143-070 Annual filing of property disposed of without authorization.
- WAC 480-143-080 Certain telephone utility leases exempt.
- WAC 480-143-990 Form of verification for application.

WSR 99-03-076
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Management Services Administration)
[Filed January 19, 1999, 3:32 p.m.]

Original Notice.
Preproposal statement of inquiry was filed as WSR 98-22-059.

Title of Rule: WAC 388-320-350 Declaratory orders—Forms, content, and filing, 388-320-360 Declaratory orders—Procedural rights of persons in relation to petition, and 388-320-370 Declaratory orders—Disposition of parties.

Purpose: Management Services Administration is proposing a repeal of WAC 388-320-350 through 388-320-370, dealing with requests to DSHS for declaratory petitions and

orders. Agencies issue declaratory orders in response to a petition for a declaratory order, a request to an agency to determine questions of rights. These DSHS WACs duplicate WAC 10-08-250 through 10-08-252. These rules are the "model rules," which agencies follow if and when they do not adopt their own.

Statutory Authority for Adoption: RCW 74.08.090, 34.05.220, 34.05.240, 34.05.250.

Statute Being Implemented: RCW 34.05.220, 34.05.240, 34.05.250.

Summary: The proposed rule making will repeal WAC 388-320-350 through 388-320-370. It will create a new rule, WAC 388-320-375, which will reference WAC 10-08-250 through 10-08-252, which are the virtually identical "model rules," and will provide an address for filing petitions with DSHS.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Merry A. Kogut, P.O. Box 45800, Olympia, WA 98504-5800, kogutma@dshs.wa.gov, (360) 902-8317.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Management Services Administration is proposing a repeal of WAC 388-320-350 through 388-320-370, dealing with requests to DSHS for declaratory petitions and orders. Agencies issue declaratory orders in response to a petition for a declaratory order, a request to an agency to determine questions of rights. These DSHS WACs duplicate WAC 10-08-250 through 10-08-252, the model rules on declaratory orders.

Proposal Changes the Following Existing Rules: The proposed rule making will repeal WAC 388-320-350 through 388-320-370. It will create a new rule, WAC 388-320-375, which will incorporate WAC 10-08-250 through 10-08-252, which are duplicative, and will provide an address for filing petitions with DSHS.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not affect small businesses.

RCW 34.05.328 does not apply to this rule adoption. These rules do not meet the definition of "significant legislative rules."

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on February 23, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by February 12, 1999, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by February 23, 1999.

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Date of Intended Adoption: No sooner than February 24, 1999.

January 15, 1999
 Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

NEW SECTION

WAC 388-320-375 How do I file declaratory orders?

(1) First, read the information on declaratory orders in RCW 34.05.240 and WAC 10-08-250, 10-08-251, and 10-08-252.

(2) Next, file your petition with the Rules and Policies Assistance Unit; DSHS; P.O. Box 45850; Olympia, WA 98504-5850.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-320-350 Declaratory orders—Forms, content, and filing.
- WAC 388-320-360 Declaratory orders—Procedural rights of persons in relation to petition.
- WAC 388-320-370 Declaratory orders—Disposition of petition.

WSR 99-03-080
PROPOSED RULES
WASHINGTON STATE PATROL
 [Filed January 20, 1999, 8:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-085.

Title of Rule: WAC 446-16-070 Report contents, 446-16-080 Report time limitations, 446-16-100 Prosecutorial agencies, and 446-16-110 Courts.

Purpose: To add the option of electronic transfer of disposition reports on approved forms; require that the process control number (PCN) be included on dispositions if known; and updates the persons responsible for transmission of completed disposition information.

Statutory Authority for Adoption: Chapter 10.98 RCW as amended by SSB 6535, 1998 regular session.

Summary: Adds the option of electronically transferring disposition reports on approved forms; requires that the process control number (PCN) be included on dispositions if known; and updates the persons responsible for transmission of completed disposition information.

Reasons Supporting Proposal: The amendments update the WAC language to reflect changes in statute.

Name of Agency Personnel Responsible for Drafting and Implementation: Ms. Toni Korneder, P.O. Box 42633, (360) 705-5101; and Enforcement: Captain John Broome, P.O. Box 42619, (360) 705-5350.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: As part of the state patrol's regulatory reform, these WAC sections are being updated to ensure the language is current and standard with the RCW.

The changes add the option of electronically transferring disposition reports on approved forms; require that the process control number (PCN) be included on dispositions if known; and update the persons responsible for transmission of completed disposition information.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Commercial Vehicle Division Conference Room, Ground Floor, General Administration Building, Olympia, Washington, on February 23, 1999, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Ms. Kendra Hensley by February 16, 1999, (360) 753-678 [753-0678].

Submit Written Comments to: Ms. Toni Korneder, P.O. Box 42633, Olympia, WA 98504-2633, fax (360) 664-9461, by February 16, 1999.

Date of Intended Adoption: February 23, 1999.

January 19, 1999

Annette M. Sandberg
 Chief

AMENDATORY SECTION (Amending WSR 97-05-048, filed 2/18/97, effective 3/21/97)

WAC 446-16-070 Report contents—General. The report of disposition shall be made on forms provided by the section (~~The name of the subject about which the report is made, the designated fingerprints of the subject, the name of the original contributor of the fingerprint or arrest record, and the original arrest number shall be entered on the disposition report exactly the same~~) or shall be transferred electronically on forms approved by the section. The disposition report shall include all arrest details as they ((appear)) appeared on the fingerprint card or arrest record previously forwarded to the section. The state identification number and PCN number should be indicated on the disposition report if known.

AMENDATORY SECTION (Amending WSR 97-05-048, filed 2/18/97, effective 3/21/97)

WAC 446-16-080 Report time limitations. All of the information requested on the disposition report shall be completed and the report mailed or electronically transferred to the Washington state patrol identification and criminal history section, within 10 days of the date that a disposition becomes effective.

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AMENDATORY SECTION (Amending WSR 97-05-048, filed 2/18/97, effective 3/21/97)

WAC 446-16-100 Prosecutorial agencies—Reporting responsibilities. (1) The prosecutor or ~~((city attorney shall complete the disposition report))~~ county clerk shall promptly transmit the completed disposition information to the section if ~~((he))~~ the prosecutor determines not to file charges or the case is not otherwise acted upon by a judicial body. In such cases, the prosecutor or ~~((city attorney))~~ county clerk shall mail or transfer the completed disposition report to the section within 10 days from the date that it is determined no further judicial action will be taken on the charges.

AMENDATORY SECTION (Amending WSR 97-05-048, filed 2/18/97, effective 3/21/97)

WAC 446-16-110 Courts—Reporting responsibilities. Where the disposition of criminal charges occurs as a result of action taken by or within the jurisdiction of any court in the state of Washington, the disposition of such charges shall be reported to the identification and criminal history section pursuant to rules of the supreme court of the state of Washington on forms approved by the supreme court and supplied by the section. However, in a county where the judicial information system or other secure method of electronic transfer of information has been implemented between the court and the section, the court may electronically provide the disposition information to the section.

WSR 99-03-081

PROPOSED RULES

WASHINGTON STATE PATROL

[Filed January 20, 1999, 8:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-086.

Title of Rule: WAC 446-20-600 Fees.

Purpose: This amendment allows the state patrol to accept credit card payments for electronic background check requests and adds taking inked fingerprints as a service the state patrol will provide for a nonrefundable fee of ten dollars.

Statutory Authority for Adoption: RCW 43.43.742 through 43.43.845 and chapter 10.97 RCW.

Summary: The amendment adds taking inked fingerprint impressions as a service provided by the state patrol for a nonrefundable fee of ten dollars. It also allows credit card payments for electronic background check requests.

Reasons Supporting Proposal: The ten dollar fee will off-set costs incurred by the state patrol for processing inked fingerprint impressions. Additionally, accepting credit card payments will expedite the processing of electronic requests.

Name of Agency Personnel Responsible for Drafting and Implementation: Ms. Toni Korneder, P.O. Box 42633, (360) 705-5101; and Enforcement: Captain John Broome, P.O. Box 42619, (360) 705-5350.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: As part of the state patrol's quality initiative, the state patrol will improve customer service by providing an added service of taking inked fingerprints at the Criminal Records Division Office. The ten dollar fee will off-set costs incurred by the state patrol for processing inked fingerprint impressions.

As an additional customer service improvement, the state patrol will expedite request processing by accepting credit card payments for electronic request.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Commercial Vehicle Division Conference Room, Ground Floor, General Administration Building, Olympia, Washington, on February 23, 1999, at 9 a.m.

Assistance for Persons with Disabilities: Contact Ms. Kendra Hensley by February 16, 1999, (360) 753-0678.

Submit Written Comments to: Ms. Toni Korneder, P.O. Box 42633, Olympia, WA 98504-2633, fax (360) 664-9461, by February 16, 1999.

Date of Intended Adoption: February 23, 1999.

January 19, 1999

Annette M. Sandberg
Chief

AMENDATORY SECTION (Amending WSR 96-18-017, filed 8/26/96, effective 9/26/96)

WAC 446-20-600 Fees. (1) A nonrefundable fee of ten dollars shall accompany each request for conviction records submitted for a name and date of birth background check or a twenty-five dollar fee if the request is submitted by fingerprint card at the state level pursuant to RCW 43.43.830 through 43.43.845, and chapter 10.97 RCW unless through prior arrangement, an account is authorized and established.

(2) A nonrefundable FBI fee of twenty-four dollars shall be charged for fingerprint cards submitted for federal searches. It shall be the responsibility of the Washington state patrol to collect all fees due and forward fingerprint cards and fees to the FBI.

(3) A nonrefundable fee of ten dollars shall be charged for taking inked fingerprint impressions by the Washington state patrol. Fees are to be deposited in the Washington state patrol fingerprint identification account.

(4) All fees are to be made payable to the Washington state patrol and are to be remitted by cashier's check, money order or check written on a business account. Credit cards may be used only for payment of electronic requests. The Washington state patrol identification and criminal history section shall adjust the fee schedule as may be practicable to ensure that direct and indirect costs associated with the provisions of these chapters are recovered.

~~((4))~~ (5) Pursuant to the provisions of RCW 43.43.838 and chapter 28A.410 RCW, no fees will be charged to a non-

profit organization, or volunteers in school districts and educational service districts for background checks.

WSR 99-03-083
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed January 20, 1999, 9:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-15-087.

Title of Rule: Examination requirements.

Purpose: Designation of a licensing examination for orthotists and prosthetists.

Statutory Authority for Adoption: RCW 18.200.050 (8)(15).

Statute Being Implemented: RCW 18.200.050.

Summary: Designates a licensing examination for orthotists and prosthetists.

Reasons Supporting Proposal: Implements statutory requirement.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Haenke, 1300 S.E. Quince Street, Olympia, WA 98504, (360) 236-4947.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Designates a licensing examination for applicants seeking licensure as orthotists or prosthetists. The purpose of the rule is to implement statutory requirements by designating an examination that will assess whether candidates for licensure possess adequate knowledge of orthotics and prosthetics as defined in chapter 18.200 RCW.

Proposal does not change existing rules.

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

Small Business Economic Impact Statement

ORTHOTISTS AND PROSTHETISTS
SIGNIFICANT RULES ANALYSIS
ECONOMIC IMPACT ANALYSIS
AND

SMALL BUSINESS ECONOMIC IMPACT STATEMENT

December 7, 1998

OBJECTIVE: To adopt a rule which designates a licensing examination(s) for candidates for licensure as orthotists or prosthetists in Washington state. The single new rule being proposed designates such an examination. The authority for this designation is found in RCW 18.200.070(2) and 18.200.050(8) which provide authority to the secretary of the Department of Health to prepare and administer, or approve the preparation and administration of, examinations for applicants for licensure.

NOTE: The term "O&P provider," "O&P practitioner," or "O&P's" will be used to substitute for "orthotists and prosthetists" throughout this document.

The content outline for the proposed rule is as follows:

WAC 246-850-060 Examination requirements. Candidates for licensure must successfully complete the following examinations in each discipline for which the license is sought:

(1) The written multiple choice examination prepared and administered by the American Board for Certification in Orthotics and Prosthetics, Inc., administered after July 1, 1991. The passing score is determined by utilizing a criterion-referenced cut score methodology.

(2) The written simulation examination prepared and administered by the American Board for Certification in Orthotics and Prosthetics, Inc., administered after January 1, 1991. The passing score is determined by utilizing a criterion-referenced cut score methodology.

BACKGROUND: Chapter 18.200 RCW provides for the licensure of orthotists and prosthetists. An orthotist designs, fabricates, assembles and fits custom braces or supports for patients who have a disease, injury or deformity that interferes with normal body functions. A prosthetist designs, fabricates and fits prostheses to replace limbs lost due to amputation, deformity or absences.

The secretary has adopted rules relating to licensure and application requirements. Of these rules, WAC 246-850-020(3) requires that a candidate for licensure as an "O or P" complete an examination.

GOALS AND SPECIFIC OBJECTIVES OF THE STATUTE: To protect the consumers of O&P services in Washington from physical, psychological and financial harm by assuring that practitioners are qualified.

IS THE RULE NECESSARY TO ACHIEVE THESE GOALS AND OBJECTIVES? This rule is necessary because it establishes a qualification for the issuance of licenses.

THE PROCESS USED TO DEVELOP THIS RULE: There are two primary choices when considering a licensing examination. These choices are development of a unique individual Washington state prepared and administered examination, or designation of an existing examination.

Because of the costs and time commitment involved in developing an original examination, the American Board for Certification in Orthotics and Prosthetics, Inc. (ABC) examination was reviewed to determine whether the examination was appropriate to determine minimal competency for Washington candidates.

To assist in the review of the actual examination department staff prepared a comprehensive list of examination content standards for both O&P. When reviewing the actual examination, the Orthotics and Prosthetics Advisory Committee and department staff utilized the comprehensive list to determine whether the content standards for Washington candidates were assessed in the examination. The review also identified whether the examination assessed content areas other than those listed as content areas for Washington candidates. Each question reviewed was scrutinized against the content standards. After the initial review, comparative statistics were developed.

Psychometric standards for both examinations including job/task analysis, construction, administration, analysis, scoring and candidate support were considered.

PROPOSED

The two examinations considered are both certifying examination for separate and distinct national certifying associations.

In the final analysis, it was determined that the most appropriate testing mechanism to examine whether candidates are competent in the scope of practice content areas for Washington licensees is the successful completion of the multiple choice and written simulation examinations prepared by ABC and administered after July 1, 1991.

As a matter of clarification, the first administration of the written simulation took place after July 1, 1991. Multiple choice examinations administered after July 1, 1991, incorporated the findings of the first role delineation study conducted by ABC.

It should also be noted that ABC also requires a practical portion for individuals who are seeking national certification with ABC. The practical portion was not included as a requirement for licensure in Washington for a number of reasons.

*All applicants must complete an internship of at least 1900 hours. These residencies will provide hands on experience to enrollees. Certain standards are required in order to complete the internship programs. It is anticipated that practical skills are assessed during the residency programs.

*Much of the material covered during the practical component is addressed in the written simulation examination.

*Because the practical examination is not given at the same time as the multiple choice and written simulation examination, it is a hardship on the candidate.

*The fee for the three day practical examination is \$550.00. This does not include travel and lodging expenses.

Currently, ABC administers the examination twice each year at twenty locations, the closest being Portland, Oregon. The examinations are administered on the same day. Applicants who sit for the examination in Portland, Oregon would probably require an average of twelve hours to travel to Portland, sit for the two examinations, and return.

ARE THE PROBABLE BENEFITS OF THE RULE GREATER THAN THE PROBABLE COST? Probable benefits: Improved quality of care - the examination designated by the rule is appropriate for assessing competency of candidates for licensure in Washington. A decrease in the risk for consumers is a direct benefit of receiving care by competent practitioners.

Improved consumer safety - failure of an orthosis or prosthesis can result in injury or permanent damage to the limb on which the device is worn.

Public sense of well being - confidence that the practitioner has met standards for licensure and is competent to practice. Competent O&P care is a key to rehabilitation and helps to mitigate the effects of injury and chronic disease and helps the patients cope.

Financial gain - the patient, his or her family and society in general sustain a financial cost when a member of society, who could otherwise be productive, is unemployable due to inadequate O&P care. Significant financial cost is incurred if O&P care fails to restore function.

Probable costs to regulated parties: Recordkeeping and reporting: The proposed rule would not represent additional recordkeeping or reporting costs to licensees.

Training and education: It is anticipated that candidates will acquire the knowledge necessary to successfully complete the examination in conjunction with completion of the statutorily mandated educational requirements.

New equipment requirements: The proposed rule would not require the purchase or procurement of equipment.

Inspections - audits: There is no requirement for an inspection or audit.

New licenses/fees: There would not be additional fees assessed by the department.

Examination fees: Candidates who sit for the ABC multiple choice or written simulation examination would be assessed by ABC:

\$250.00 for the Multiple Choice Examination

\$250.00 for the Written Simulation Examination

\$75.00 handling/processing fee (includes reporting of scores)

\$180.00 free-time to take the examination

The fee for the examinations are the same fees charged by ABC to sit for the certification examination.

The costs to candidates to sit for the ABC examination are likely less than the cost to candidates for a department prepared examination.

Applicants who were ABC certified after July 1, 1991, would already have taken the required examination. There would be no additional examination requirement or fee. There may be a fee assessed for reporting of scores by ABC to Washington for those persons who have already taken the examination.

Licensure and certification: Although national certification is not required for licensure, it is preferred by some employers and institutions. This preference is more prevalent in the western United States than in the south. Many O&P practitioners complete these examinations to obtain ABC certification regardless of the Washington licensure requirement.

Of the 106 recorded certified prosthetists and orthotists in Washington, 87 are certified by ABC.

Probable costs to DOH: There are not significant additional costs to DOH as a result of this rule.

COST/BENEFIT SUMMARY: Given the intangible nature of the benefits of the proposed rules, i.e., improved quality of care, improved consumer safety, public sense of well being, and financial gain, it is difficult to compute an actual monetary value. However, when viewed against the costs to the regulated parties, the department concludes that the benefits exceed the costs.

ALTERNATIVES TO RULE MAKING: Because the proposed rule establishes a qualification for the issuance of a license, there is no alternative to rule making for the purpose of designating a licensing examination.

VIOLATION OF ANOTHER FEDERAL OR STATE LAW? The proposed rule is not in violation of another FEDERAL or state law.

IMPOSE STRICTER PERFORMANCE REQUIREMENTS ON PRIVATE ENTITIES THAN PUBLIC ENTITIES: Any proposed performance requirements would apply equally to both private or public entities.

PROPOSED

RULES DIFFER FROM FEDERAL REGULATION OR STATUTE: There are no known federal regulations or statutes that differ from the proposed rules.

COORDINATE RULE WITH OTHER FEDERAL, STATE AND LOCAL LAWS ON SAME ACTIVITY: The program has maintained open contact with stakeholders during the course of the rules development.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT: Nearly all providers pay the fees for their own credentials. Individual providers qualify as small businesses since less than fifty people are employed. Since most providers qualify as small businesses, there is no disproportionate impact to small businesses. When there is no disproportionate impact, mitigation is not necessary.

An estimated thirty orthotists and thirty prosthetists per year will have to comply with the requirements of these rules after the initial grandfathering period has passed. There is no examination requirement for grandfathering purposes. Public involvement was solicited through mail to all persons on the interested persons mailing list. In addition, a public meeting was held in the Seattle area.

A copy of the statement may be obtained by writing to Judy Haenke, P.O. Box 47870, Olympia, WA 98504-7870.

RCW 34.05.328 applies to this rule adoption. It establishes qualifications for the issuance of licenses.

Hearing Location: 1102 S.E. Quince Street, Olympia, WA, on February 24, 1999, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Judy Haenke by February 12, 1999, TDD (800) 525-0127, or (360) 236-4982.

Submit Written Comments to: Judy Haenke, P.O. Box 47870, Olympia, WA 98504-7870, fax (360) 586-0745, by February 19, 1999.

Date of Intended Adoption: February 25, 1999.

January 20, 1999

Kristine Van Gorkom

Deputy Secretary

NEW SECTION

WAC 246-850-060 Examination requirements. (1) An applicant for licensure as an orthotist must successfully complete the following examinations:

(a) The orthotic written multiple choice examination prepared and administered by the American Board for Certification in Orthotics and Prosthetics, Inc., administered after July 1, 1991. The passing score is determined by utilizing a criterion-referenced cut score methodology.

(b) The orthotic written simulation examination prepared and administered by the American Board for Certification in Orthotics and Prosthetics, Inc., administered after July 1, 1991. The passing score is determined by utilizing a criterion-referenced cut score methodology.

(2) An applicant for licensure as a prosthetist must successfully complete the following examinations:

(a) The prosthetic written multiple choice examination prepared and administered by the American Board for Certification in Orthotics and Prosthetics, Inc., administered after

July 1, 1991. The passing score is determined by utilizing a criterion-referenced cut score methodology.

(b) The prosthetic written simulation examination prepared and administered by the American Board for Certification in Orthotics and Prosthetics, Inc., administered after July 1, 1991. The passing score is determined by utilizing a criterion-referenced cut score methodology.

WSR 99-03-084

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed January 20, 1999, 9:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-097.

Title of Rule: Chapter 16-54 WAC, Animal importation.

Purpose: The purpose of chapter 16-54 WAC is to lay out rules for the importation of animals to protect the animal health or public health in the state of Washington.

Statutory Authority for Adoption: RCW 16.36.040.

Statute Being Implemented: RCW 16.36.020, [16.36.] - 040, [16.36.]050, [16.36.]096, and [16.36.]100.

Summary: Changes to the rule modifies the definition and rules for an official brucellosis vaccinate. Makes technical corrections and modernizes language. Exempts dogs, cats, ferrets, horses, llamas, alpacas, and sheep from some health certificate requirements. Excludes Idaho horse from EIA testing if reciprocal. Removes a large section of obsolete language pertaining to equine quarantine stations. Modified import requirements for sheep and blackface sheep.

Reasons Supporting Proposal: Modernizes the rules, reduces some regulatory burden, removes unnecessary language, and makes the rule consistent and complementary to a new proposed scrapie rule.

Name of Agency Personnel Responsible for Drafting: Robert W. Mead, DVM, 1111 Washington Street, Olympia, 98504, (360) 902-1881; Implementation and Enforcement: Kathleen M. Connell, DVM, 1111 Washington Street, Olympia, 98504, (360) 902-1835.

Name of Proponent: Washington Department of Agriculture, Washington Sheep Producers, Washington Cattlemen's Association, Washington Dairy Federation, private and governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: There will be a net reduction in regulations on imported animals.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These changes to chapter 16-54 WAC will make the rule more readable and understandable. Obsolete sections and language have been removed. Some regulatory burden on importers of certain animals is removed and import requirements for sheep complements the new proposed scrapie rule, chapter 16-89 WAC.

Proposal Changes the Following Existing Rules: The changes modernize and bring up to date the animal import rules. Dogs, cats, horses, llamas, alpacas, and sheep under the new rules may be imported without an interstate health certificate if they are personal animals, not for sale, are traveling in personal vehicles for visits of 96 hours or less. The revised rule only applies to Oregon and Idaho horses and any required tests or vaccinations are still required for entry. New sheep import rules are slightly more restrictive as part of the new scrapie prevention program.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The overall impact of these changes is fiscally positive because the regulatory burden on small agricultural businesses is being reduced or eliminated. The additional testing costs for sheep owners in other states who wish to import into Washington will be less than \$50.00 each for approximately twenty-five importations of rams by out-of-state sheep owners annually.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Cafeteria Conference Room, First Floor, Natural Resources Building, 1111 Washington Street, Olympia, WA 98504-2577, on February 23, 1999, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by February 23, 1999, TDD (360) 902-1996, or (360) 902-1878.

Submit Written Comments to: Robert W. Mead, DVM, State Veterinarian, P.O. Box 42577, Olympia, WA 98504-2577, fax (360) 902-2087, by February 22, 1999.

Date of Intended Adoption: April 15, 1999.

January 19, 1999

Candace Jacobs, DVM
Assistant Director

AMENDATORY SECTION (Amending Order 5010, filed 9/21/93, effective 10/22/93)

WAC 16-54-010 Definitions. For purposes of this chapter:

(1) "Director" means the director of agriculture of the state of Washington or his duly authorized representative.

(2) "Breeding cattle" shall be those females and bulls not consigned to a federally inspected slaughter establishment, a restricted feedlot, or other authorized slaughter only channel.

(3) "Official brucellosis test" means blood samples are to be tested only by cooperating state-federal laboratories or by such persons as may be authorized by state of origin animal health officials to conduct the standard agglutination tests or the card test. All samples initially tested at other than cooperating state-federal laboratories shall be promptly submitted and confirmed at the cooperating state-federal laboratory.

(4) "Official (~~calft~~) brucellosis vaccinate" means a female bovine animal vaccinated between the ages of four and twelve months (one hundred twenty days to three hundred sixty-five days) with an approved brucella vaccine such as strain 19 vaccine or RB-51 vaccine or any other legal brucellosis vaccination administered in accordance with the laws and regulations of a state or country.

(5) "Class free and Class A, B, and C states" means states as classified by the current federal brucellosis eradication uniform methods and rules.

(6) "Stage I, II, III, IV, or V Pseudorabies state" means states as classified by the current federal pseudorabies eradication Uniform Methods and Rules.

(7) "Official health certificate" means a legible certificate of veterinary inspection executed on an official form of the state of origin or of the Animal and Plant Inspection Service (APHIS), United States Department of Agriculture (USDA), by a licensed and accredited veterinarian or a veterinarian approved by the proper official of APHIS, USDA.

(8) "Animal" means any animal species except fish and insects.

(9) "Domestic animal" means any farm animal raised for the production of food and fiber or companion animal or both.

(10) "Farm animal" means any species which have normally and historically been kept and raised on farms in Washington, the United States, or elsewhere or used or intended for use as food, fiber, breeding, or draft and which may be legally kept for such use in Washington and are not those animals classified as wildlife or deleterious exotic wildlife under Title 77 RCW.

AMENDATORY SECTION (Amending Order 1838, filed 7/24/84)

WAC 16-54-016 Official (~~calft~~) brucellosis vaccinates. All vaccinations must be done by a licensed accredited veterinarian or federal or state employed veterinarian. Vaccinated animals must be permanently identified as vaccinates by a tattoo in the right ear. The tattoo shall be the U.S. registered shield and V preceded by a (~~number~~) letter indicating the quarter of the year for vaccination with strain 19, an R for RB-51 vaccination under twelve months of age and any other state designation for other categories of brucellosis vaccinations and followed by a number corresponding to the last digit of the year in which vaccination was done. An official vaccination tag shall be used for individual animal identification unless excepted by the director.

AMENDATORY SECTION (Amending Order 5010, filed 9/21/93, effective 10/22/93)

WAC 16-54-020 Illegal importation. (1) All animals being shipped into this state must have met the requirements of Title 9, Code of Federal Regulations as revised as of January 1, 1998, (~~in effect at the time of~~) for movement or importation from foreign countries and in addition (~~thereto~~) must meet all the applicable laws, rules and regulations of the state of Washington pertaining to animal health and care of animals.

(2) It shall be unlawful for any person, firm or corporation to import any animal unless in compliance with the requirements set forth hereafter in this order, and regulations relating to importation into and movement within the state of Washington of poultry, hatching eggs and wildlife. No animal, including poultry and wildlife, that is affected with any infectious or communicable disease shall be imported into

the state unless written permission for the importation is obtained from the director and in the instance of wildlife, written permission from the director of the department of wildlife shall also be obtained.

(3) It shall be unlawful for any person, firm, or corporation importing livestock into the state of Washington to fail to stop for inspection at any posted livestock inspection point.

AMENDATORY SECTION (Amending WSR 92-21-039, filed 10/15/92, effective 11/15/92)

WAC 16-54-030 Health certificate. (1) All animals entering Washington shall be accompanied by an official health certificate except:

(a) Dogs and cats originating in Washington and visiting Canada for thirty days or less.

(b) Dogs, cats and ferrets that are family pets traveling by private automobile with their owners who possess a current rabies certificate for the animals. This exemption does not apply to dogs, cats or ferrets imported for sale or puppies, kittens, or kits too young to vaccinate.

(c) Horses traveling into Washington with their Oregon or Idaho owners in personal vehicles for round-trip visits of not more than ninety-six hours duration. This exemption does not apply during emergency disease conditions declared by the state veterinarian or extend to any required testing.

(d) Llamas and alpacas traveling into Washington with their Oregon or Idaho owners in personal vehicles for round-trip visits of not more than ninety-six hours duration. This exemption does not apply during emergency disease conditions declared by the state veterinarian.

(e) Sheep traveling into Washington with their Oregon or Idaho owners in personal vehicles for round-trip visits of not more than ninety-six hours duration. This exemption does not apply during emergency disease conditions declared by the state veterinarian or extend to any animals entering for breeding purposes.

(f) Those classes of animals specifically exempted in laws or regulations of this state.

(2) Official health certificate shall contain the following information:

(a) Date of inspection. All health certificates void after thirty days, except breeding cattle forty-five days from date of issue (~~(+ Provided,)~~). The director may give special exemption for show animals.

(b) Names and addresses of the consignor and consignee.

(c) Certification that the animals are apparently free from evidence of infectious and communicable disease.

(d) Test or vaccination status when required.

(e) Description of each animal to include species, breed, age, sex, tag or tattoo and for cattle, only an official ear tag will be accepted or if registered, the registry name, number and tattoo for individual identification except one brand or other owner identified animals, all of the same description, for which tests are not required.

(f) Certification of disinfection of cars and trucks when required.

(g) An owner/agent statement which says "the animals in this shipment are those certified to and listed on this certifi-

cate" and is signed and dated by the owner, agent, or veterinarian.

(3) All health certificates shall be (~~(approved)~~) reviewed by the livestock sanitary official of the state of origin and a copy shall be forwarded immediately to the department of agriculture, Olympia, Washington.

AMENDATORY SECTION (Amending Order 1792, filed 4/8/83)

WAC 16-54-040 Immediate slaughter cattle and horses. The director, his appointed officers, any other peace officers, or member of the state patrol may stop vehicles carrying cattle or horses to determine if the cattle or horses are identified or branded as immediate slaughter cattle or horses and, if so, that the cattle or horses are not being diverted for other purposes to points other than the specified point of slaughter. Slaughter horse assembly and feedlot points wanting to keep slaughter horses in excess of seven days within the state of Washington for feeding purposes may apply to the director for special horse feedlot status. No horses may be removed from the feedlot for other than slaughter purposes, except for transfer to feedlots of like status in Washington, Idaho, or Oregon. Federally approved export quarantine stations are exempt from applying for such status.

AMENDATORY SECTION (Amending WSR 94-23-121, filed 11/22/94, effective 12/23/94)

WAC 16-54-071 Domestic equine. (1) Domestic equine animals shall be accompanied by an official health certificate stating that they are free from clinical symptoms of infectious and communicable disease. All equine over six months of age must have a record of a negative test for the diagnosis of equine infectious anemia made within six months prior to entry. Horses moving to Washington from Oregon (~~(are)~~) or Idaho may be excluded from test requirements when reciprocal.

(2) Breeding stallions or their semen shall be tested negative for equine viral arteritis (EVA) within ninety days of import. Positive stallions or semen may be imported with a certifying statement on the health certificate that the consignee has been advised and consents to the shipment. All positive stallions or semen entering Washington shall be moved on a permit issued by the office of the state veterinarian and may be subject to quarantine.

(3) Washington horses may reenter Washington when returning from shows, rides or other events from states that will accept travel to that state with a current "equine certificate of veterinary inspection and interstate movement permit" without additional animal health certifications. Within fourteen days of the return to Washington an "itinerary of interstate travel" must be filed with the state veterinarian's office. Likewise horses from the western state of Oregon, California, Idaho, Nevada, Utah, Arizona, Montana, Wyoming, Colorado, or New Mexico may enter the state of Washington for shows, rides or other events and return with documents similar to the above named documents under a state system of equine health certification acceptable to the Washington state veterinarian and the state origin by written agree-

ment. In any case, travel under this alternative to normal thirty-day health certification will be limited to not more than ninety days duration for any one excursion and the movement permit shall expire in six months from the date of the certificate.

~~((4) Equine quarantine stations. Stallions or mares imported from foreign countries listed in 92.301(c)(1) of the Code of Federal Regulations (CFR) may only be received at an approved equine quarantine station. No person may receive in this state any stallion or mare which is imported from a foreign country in which contagious equine metritis has been reported unless the stallion or mare is imported directly to an approved equine quarantine station in a sealed vehicle. The sealed vehicle shall have been sealed at a federal or federally approved quarantine station or port of entry by a federal or federally approved agent. The imported stallion or mare shall be accompanied by an import permit issued by the state veterinarian's office prior to the date on which the stallion or mare is brought into the state. The vehicle seal may not be removed except by an authorized employee or agent of the department of agriculture at an approved equine quarantine station. All equine animals, including test mares, which are received at an approved equine quarantine station shall be identified with an individual identification of a type approved by the state veterinarian.~~

~~(a) Quarantine release. An imported stallion or mare received at an approved equine quarantine station under subsection (4) of this section is quarantined until the quarantine is released by the director of agriculture in writing. A quarantined equine animal may not be removed from the quarantine premises or be allowed in contact with other equine animals on adjacent premises. Contact between a quarantined equine animal and a test mare is permitted, but only pursuant to a written agreement with the department under (d) of this subsection. A test mare which has been in contact with an imported stallion is quarantined until the quarantine is released by the department in writing.~~

~~(b) Approved equine quarantine station permit. No person may operate an approved equine quarantine station in Washington state without written permission from the director, Washington department of agriculture. Permits shall expire December 31 of each year. Applications for a permit shall be made in writing as required by the director. The director shall grant or deny a permit application within ninety days after the application is received provided that the application is accompanied by all requisite information and documentation. Every application shall include:~~

- ~~(i) The name and mailing address of the applicant and any trade name or business name to be used by the applicant;~~
- ~~(ii) A statement indicating whether the applicant is an individual, partnership, corporation, cooperative corporation, or other business association or entity;~~
- ~~(iii) The location of the equine quarantine station specified by county, town or city, road or street, and number;~~
- ~~(iv) The name and address of the accredited veterinarian who will perform all identification, handling, testing, and treatment of equine animals at the approved equine quarantine station under procedures or protocols established by the department; and~~

~~(v) Other information which the department may require if the information is reasonably relevant to the department's action on the permit request.~~

~~(c) Construction requirements. Approved equine quarantine stations shall be constructed and maintained to prevent contact between quarantined equine animals and any other equine animals on the premises, including test mares. An approved equine quarantine station shall be maintained in a clean and sanitary manner.~~

~~(d) Testing and treatment procedures. Before permission is granted for the operation of an approved equine quarantine station, the station operator and the accredited veterinarian designated under (b)(iv) of this subsection shall enter into a written agreement with the department establishing procedures and protocols to be followed in the identification, handling, testing, and treatment of equine animals quarantined in the station. The approved equine quarantine station shall be operated in compliance with the agreed procedures and protocols. Procedures and protocols shall be performed by the designated veterinarian except as otherwise authorized by the director.~~

~~(e) Recordkeeping. The operator of an approved equine quarantine station shall keep complete and accurate records which shall be made available for inspection and copies of which shall be supplied to the department upon request. Records shall be kept for at least two years after they are made and shall include:~~

- ~~(i) The identification, date of arrival, and date of removal of each imported equine animal received at the quarantine station;~~
- ~~(ii) The name and address of the owner of each equine animal received at the quarantine station correlated with a specific identification of the equine animal; and~~
- ~~(iii) A complete record of the procedures and protocols followed in conjunction with the identification, handling, testing and treatment of each imported animal.)~~

AMENDATORY SECTION (Amending Order 6009, filed 12/16/96, effective 1/16/97)

WAC 16-54-082 Domestic bovine animals. All domestic bovine animals (including bison) entering Washington shall be moved on a permit issued by the office of the state veterinarian. All domestic bovine animals (including bison) shall meet the following requirements:

- (1) Tuberculosis. All beef and dairy cattle must originate from herds not under quarantine in a not less than modified accredited area. The state veterinarian may require a negative tuberculosis test within thirty days of import for cattle (including bison) from the states classified as modified accredited or accredited free if *Mycobacterium bovis* (*M. bovis*) has been cultured from a herd in that state within the previous twelve months. All Mexican cattle imported from Mexico within three years of date of importation to Washington must show proof of a tuberculosis retest at least one hundred twenty days after import to the United States. Such cattle without proof of retest must be held on the premises of destination in Washington and kept separate from all other cattle for not less than one hundred twenty nor more than one hundred eighty days from the date of entry and retested for

tuberculosis during the one hundred twenty to one hundred eighty-day period.

(2) Brucellosis health certificate requirements. All domestic bovine animals (including bison), except those consigned to restricted feedlots, to federally inspected slaughter plants for immediate slaughter, or beef breed cattle, slaughter only dairy breed cattle, or dairy breed cattle from Oregon, Montana, and Idaho consigned to a state-federal approved livestock market, shall be accompanied by an official interstate health certificate and shall meet the following requirements:

(a) Brucellosis test.

(i) Cattle from class free and A states.

(A) Sexually intact heifers from brucellosis quarantined herds in class free and A states shall not be imported into the state of Washington except for immediate slaughter at a federally inspected slaughter plant.

(B) Cattle other than those referred to in (a)(i)(A) of this subsection from class free or A states which are test eligible, unless destined for a restricted feedlot or for immediate slaughter at a federally inspected slaughter establishment, must be negative to an official brucellosis test conducted within thirty days prior to date of entry. Cattle not considered test eligible include:

(I) Calves under six months of age.

(II) Steers and spayed heifers.

(III) Officially vaccinated dairy cattle under twenty months of age and officially vaccinated beef cattle under twenty-four months of age.

(IV) Cattle from a certified brucellosis free herd.

(V) Cattle from selected brucellosis free states designated by the Washington state veterinarian.

(ii) Cattle from Class B or C states.

(A) Sexually intact females from other than certified brucellosis free herds in states classified B or C by the USDA shall not be imported into the state of Washington except for immediate slaughter at a federally inspected slaughter establishment.

(B) Sexually intact males from Class B states which are test eligible, unless destined for a restricted feedlot or for immediate slaughter at a federally inspected slaughter establishment, must be negative to an official brucellosis test conducted within thirty days prior to date of entry and held on the premises of destination and kept separate from all other cattle for retest not less than forty-five nor more than one hundred twenty days from the date of the preentry test. Cattle not considered test eligible include:

(I) Calves under six months of age.

(II) Steers and spayed heifers.

(III) Cattle from a certified brucellosis free herd.

(C) Sexually intact males from Class C states which are test eligible must be negative to two official brucellosis tests conducted prior to entry at least sixty days apart, the second test to be conducted within thirty days of entry. Those cattle shall be held on the premises of destination and kept separate from all other cattle for retest not less than forty-five nor more than one hundred twenty days from the date of the second negative preentry test. Cattle not considered test eligible include:

(I) Calves under six months of age.

(II) Steers and spayed heifers.

(III) Cattle from a certified brucellosis free herd.

(iii) Beef cattle eligible for brucellosis testing coming from class free or A states or dairy cattle coming from Idaho, Montana, or Oregon may be moved to state-federal approved livestock markets in Washington to meet entry health requirements.

(iv) Should brucellosis infection occur in the state of Washington as a result of importation of infected animals, all future importations from the state of origin shall be required to meet import regulations of the next lower classification. State regulatory officials of that state shall be notified and the lower classification entry requirement will be in effect for twelve months following notification to the state of origin.

(b) Brucellosis vaccinates—female dairy cattle. All female dairy cattle must be identified as official brucellosis vaccinates before entry into a dairy cow breeding herd. Except the following classes of cattle are exempt from this requirement:

(i) Calves under four months of age.

(ii) Those cattle consigned directly to a restricted feedlot.

(iii) Spayed heifers.

(c) Brucellosis vaccinates—female beef cattle. All female beef breed cattle must be identified as official brucellosis vaccinates before entry into a beef cow breeding herd, except the following classes of cattle are exempt from this requirement:

(i) Calves under four months of age.

(ii) Cattle sold or consigned to a restricted feedlot.

(iii) Spayed heifers.

(d) Cattle from a certified brucellosis free country may be imported if the state veterinarian, upon being assured that to allow such cattle to enter would not create any jeopardy to the livestock industry of the state of Washington, issues a special permit for such entry.

(3) Scabies. The office of the state veterinarian may require that any cattle from a known infected area be dipped at an official dipping facility within ten days of entry and, except those consigned to a federally inspected slaughter plant for immediate slaughter within fourteen days, be accompanied by an official interstate health certificate. Ivermectin may be used as an alternative to the dipping procedure for beef and nonlactating dairy animals.

(4) Vesicular stomatitis. The office of the state veterinarian may require that:

(a) Any cattle be accompanied by an official interstate health certificate except those consigned to a federally inspected slaughter plant for immediate slaughter within fourteen days;

(b) Dairy breed cattle be held separate and apart from all other cattle for a period of seven days at the point of destination and rechecked by an accredited veterinarian at the end of that period; except that dairy breed cattle from known infected areas shall not be allowed entry into the state; and

(c) Beef breed cattle from known infected areas be held separate and apart from all other cattle for a period of thirty days either prior to entry or at the point of destination or both.

(5) Temporary grazing permits. Herd owners desiring to move cattle into Washington for temporary grazing purposes must obtain a prior permit from the office of the state veteri-

narian(~~(-Provided, That)~~). The state veterinarian may, if deemed necessary, require a brucellosis herd test and/or an official health certificate for any cattle entering the state for grazing purposes. Applicants must also file an approved herd plan with the office of the state veterinarian to phase out all brucellosis nonvaccinates in the herd prior to January 1, 1988. Grazing permits shall be for one specified season only and shall be valid for movement to only that destination declared on the permit. A copy of the permit shall accompany any vehicle transporting cattle into the state for such temporary grazing purposes.

AMENDATORY SECTION (Amending WSR 92-21-039, filed 10/15/92, effective 11/15/92)

WAC 16-54-101 Sheep. Sheep except those for immediate slaughter, shall be accompanied by a health certificate stating they are clinically free from infectious and communicable disease and in addition shall comply with the following requirements which shall be stated on the health certificate:

(1) Originate from a flock in which no scrapie has existed for ~~(three)~~ five years or is from a flock enrolled in the USDA Voluntary Scrapie Flock Certification Program.

(2) All breeding rams six months of age and over must have a negative ELISA test for brucella ovis within thirty days prior to entry into Washington and be palpated and certified free of brucella ovis or be from a brucella free flock. Each ram must be individually identified with an individual eartag or registration tattoo. This number, along with the test results and date of test, must be entered on the health certificate which must accompany the animal(s).

(3) All blackface rams imported into Washington state for the purpose of breeding must be determined by genetic testing to be QR or RR at the 171 codon.

(4) All blackface breeding rams shall be moved on a permit issued by the office of the state veterinarian.

AMENDATORY SECTION (Amending Order 1918, filed 3/25/87)

WAC 16-54-120 Dogs and cats. In addition to the general provisions for the importation of livestock, the official health certificate for dogs and cats shall contain the certification:

(1) That such animals are apparently free from infectious, contagious, and communicable disease.

(2) That all dogs and cats have been vaccinated against rabies according to United States Public Health Department regulations and standards at the time of entry. Each animal must be identified by a tag number and on an official health certificate. Dogs and cats that are family pets traveling by private automobile with their owners, who possess a current valid rabies certificate for the animals, are exempted from the health certificate requirement. This exemption does not apply to dogs or cats imported for sale or puppies or kittens too young to vaccinate.

(3) That such animals do not originate from an area under quarantine for rabies. Animals originating from rabies quarantine or rabies areas must be accompanied by a permit obtained from the state department of agriculture office in

Olympia, Washington previous to shipment, the terms of which must be stated on the health certificate.

AMENDATORY SECTION (Amending Order 5010, filed 9/21/93, effective 10/22/93)

WAC 16-54-135 Llamas and alpacas. All llamas and alpacas imported into Washington shall be accompanied by a health certificate stating that the animals are free from signs or exposure to infectious or contagious disease. Llamas and alpacas six months of age and over must be tested negative for brucellosis and tuberculosis not more than thirty days prior to entry. The tuberculosis test is to be performed just caudal to the elbow joint in a similar manner to the single strength single cervical test. Testing for brucellosis and tuberculosis is not required for llamas and alpacas exempted from the health certificate requirements in WAC 16-54-030 (1)(d).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-54-150 Penalty.

WSR 99-03-085 PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed January 20, 1999, 9:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-098.

Title of Rule: Chapter 16-59 WAC, Importation of poultry and hatching eggs.

Purpose: The purpose of chapter 16-59 WAC is to detail rules for control, surveillance and eradication of important poultry diseases and to protect animal and public health in Washington state.

Statutory Authority for Adoption: RCW 16.36.040.

Statute Being Implemented: RCW 16.36.010, [16.36.]020, [16.36.]040, [16.36.]050, [16.36.]090, [16.36.]096, and [16.36.]100.

Summary: Changes add definitions, modernize the language and make technical corrections. Changes clarify importation requirements and testing to control and prevent the introduction of various poultry diseases into the state. The rule on shipping containers and equipment is modernized.

Reasons Supporting Proposal: Modernizes the chapter, provides definitions, removes some regulatory burden, removes unnecessary language and makes technical corrections in terminology and testing methods.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kathleen M. Connell, DVM, 1111 Washington Street, Olympia, WA 98504, (360) 902-1835.

Name of Proponent: Washington State Department of Agriculture, WSU College of Veterinary Medicine, Agricultural Animal Health Program Advisory Board, WSU Avian Health Laboratory, Washington Egg Commission, Northwest Egg Producers Cooperative Association, Washington Fryer Commission, USDA APHIS Veterinary Services Area Office, private and governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: There will be a slight reduction in importation regulations for poultry and hatching eggs.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of chapter 16-59 WAC is to detail rules necessary for control, surveillance and eradication of important poultry diseases and to protect animal and public health in Washington state. Washington state has achieved and maintained its United States pullorum-typhoid clean classification and is free of other poultry diseases, but rules are necessary for surveillance and emergency situations. The federal government relies on state authorities for quarantine and investigative authorities, except in a declared animal health emergency. The chapter clarifies importation requirements and testing to control and prevent the introduction of various poultry diseases into the state.

It is an economic benefit to the state's poultry producers to be classified free of poultry diseases. Maintaining the disease-free classifications allows the state greater access to foreign markets and allows for interstate animal movements with a minimum of testing. This saves the poultry industry a minimum of \$1 million annually in testing costs.

Proposal Changes the Following Existing Rules: Changes add definitions, modernize the language and make technical corrections in terminology and testing methods. The changes clarify importation requirements and testing to control and prevent the introduction of various poultry diseases into the state. The rule on shipping containers and equipment is modernized.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The overall impact of these changes is fiscally neutral or positive. The regulatory burden on small agricultural businesses stays the same or is being reduced slightly.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Cafeteria Conference Room, 1st Floor, Natural Resources Building, 1111 Washington Street, Olympia, WA 98504-2577, on February 23, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by February 22, 1999, TDD (360) 902-1996, or (360) 902-1878.

Submit Written Comments to: Kathleen M. Connell, DVM, Assistant State Veterinarian, P.O. Box 42577, Olympia, WA 98504-2577, fax (360) 902-2087, by February 22, 1999.

Date of Intended Adoption: April 15, 1999.

January 19, 1999

Candace A. Jacobs, DVM, MPH
Assistant Director

Chapter 16-59 WAC

IMPORTATION AND MOVEMENT OF POULTRY AND HATCHING EGGS

AMENDATORY SECTION (Amending Order 997, Promulgation, filed 1/21/66)

WAC 16-59-001 ((Promulgation-)) Definitions. ((~~Donald W. Moos, director of agriculture of the state of Washington by virtue of the authority vested in me under chapter 16.36 RCW, after due notice as provided under chapters 34.04 and 42.32 RCW, and a public hearing held in Olympia on January 12, 1966 do promulgate the following regulations:~~) (1) "Baby poultry" means newly hatched poultry that have not been fed or watered.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Director" means the director of agriculture of the state of Washington or his or her authorized representative.

(4) "Game birds" means domesticated fowl such as pheasants, partridge, quail, grouse and guineas, but not doves and pigeons.

(5) "Hatching eggs" means fertile eggs that have the potential to hatch baby poultry.

(6) "Infectious coryza" means a respiratory disease of poultry caused by haemophilus paragallinarum (gallinarum).

(7) "Infectious laryngotracheitis" means a highly contagious respiratory disease of poultry caused by a herpesvirus.

(8) "NPIP" means USDA National Poultry Improvement Plan, a cooperative industry-state-federal program to eliminate egg-transmitted and hatchery-disseminated diseases. Title 9, Code of Federal Regulations, Part 145, are the plan standards and contain the requirements for this voluntary program.

(9) "Official health certificate" means a legible certificate of veterinary inspection on an official form of the state of origin or of the USDA Animal and Plant Health Inspection Service (APHIS) executed by a licensed and accredited veterinarian or a veterinarian approved by the proper official of USDA APHIS.

(10) "Ornithosis" means a disease of poultry caused by Chlamydia psittaci, transmissible to other animals and humans and synonymous with the term psittacosis.

(11) "Person" means a person, persons, firm or corporation.

(12) "Poultry" means chickens, turkeys, ratites, waterfowl, game birds, pigeons, doves and other domestic fowl designated by statute. "Poultry" does not mean free ranging birds defined as wildlife in Title 77 RCW.

(13) "Pullorum" means a disease of poultry caused by Salmonella pullorum.

PROPOSED

(14) "Typhoid" means a disease of poultry caused by *Salmonella gallinarum*.

AMENDATORY SECTION (Amending WSR 94-23-122, filed 11/22/94, effective 12/23/94)

WAC 16-59-010 Health certificates. (1) ~~(It shall be unlawful for any person, firm or corporation to import any poultry or hatching eggs into this state unless in compliance with the requirements set forth hereafter in this rule and in accordance with Washington import rules (chapter 16-54 WAC) and Title 9, Code of Federal Regulations. Shipment to be accompanied by an official health certificate or certificate of veterinary inspection (except shipments for immediate slaughter, hatching eggs and unfed poultry) on which vaccinations are shown when applicable giving dates, method and type of vaccine used in addition to requirements of Washington import rules.) Shipments of poultry and hatching eggs must comply with requirements in this chapter and Washington animal importation rules (chapter 16-54 WAC) to be imported into this state. An official health certificate must accompany the shipment. In lieu of an official health certificate, an official NPIP form is acceptable. An official health certificate is not required for shipments sent to immediate slaughter or for hatching eggs or baby poultry from NPIP participants.~~

(2) A permit is required for ~~(import)~~ importation of ratites ~~(and)~~. The permit number is issued by the state veterinarian and must be entered on the official health certificate (of veterinary inspection or health certificate). Each ratite imported must be permanently identified with a permanent leg band, microchip, or tattoo showing an individual number. The type of identification (including type of microchip if used) must be listed on the official health certificate (of veterinary inspection or health certificate). ~~(Health requirements for ratites also appears in chapter 16-54 WAC.~~

~~(2))~~ (3) Chickens, ratites, waterfowl, game birds, pigeons, doves and other domestic fowl must originate from a producer participating in the pullorum-typhoid control phase of NPIP or test serologically negative for pullorum-typhoid within the past thirty days. In the case of eggs and baby poultry, the breeder flock must be an NPIP participant or must have tested negative to pullorum-typhoid within the past thirty days. Turkeys must originate from a producer participating in the pullorum-typhoid and Mycoplasmosis control phases of NPIP or test serologically negative for pullorum-typhoid and Mycoplasmosis within the past thirty days. In the case of eggs and newly hatched turkeys, the breeder flock must be an NPIP participant or must have tested negative to pullorum-typhoid and Mycoplasmosis within the past thirty days.

(4) Poultry for immediate slaughter may enter and move within the state of Washington directly to slaughter plants ~~(under federal, state, county or municipal supervision providing)~~. The accompanying (certificate or waybill is so marked with) shipping document must indicate the following information:

(a) The plant of destination;

(b) That the birds are consigned for ~~((immediate))~~ slaughter and ~~((shall))~~ will be slaughtered ~~((forthwith))~~ immediately after arrival at the plant;

(c) The shipper's name and address; and

(d) The number and type of birds in the shipment.

~~((3)) For the purpose of this order the term "poultry" is considered to include all chickens, turkeys, ratites and other domestic fowl.)~~

AMENDATORY SECTION (Amending Order 997, Regulation 2, filed 1/21/66)

WAC 16-59-020 Wrongful sale. It ~~((shall be))~~ is unlawful for any person~~(s)~~ to ~~((give, barter,))~~ exchange, sell, ~~((offer for sale))~~ or otherwise distribute poultry~~(, including baby chicks and/or poults)~~ or hatching eggs ~~((in the state of Washington that are))~~ affected with or ~~((originate))~~ originating from flocks affected with pullorum-typhoid or other contagious, infectious or communicable disease mentioned in this ((order except upon)) chapter. The state veterinarian may make an exception and issue a permit ((issued by the Washington state department of agriculture)) for importation or movement when satisfied such movement will not affect the health of flocks in the state.

AMENDATORY SECTION (Amending WSR 94-23-122, filed 11/22/94, effective 12/23/94)

WAC 16-59-030 Testing of breeding stock. (1) **Pullorum-typhoid:** All poultry and hatching eggs ((baby chicks and/or poults, and growing stock (started pullets))) in interstate movement ~~((shall have originated))~~ must originate from parent or grandparent stock which are ~~((were))~~ registered as participating flocks under ~~((the National Poultry Improvement Plan ((NPIP)))~~ or equivalent state program ~~((and))~~. The poultry and hatching eggs must be classified as ((Salmonella)) pullorum-typhoid free or ((are)) must be tested negative for ((Salmonella)) pullorum-typhoid within thirty days of movement. Acceptable tests are ((serum)) standard tube agglutination, ((serum or whole blood plate agglutination with pullorum antigen or)) microagglutination, enzyme-linked immuno-sorbent assay (ELISA) or rapid serum test. The stained antigen, rapid whole blood test can be used for all poultry except turkeys. The state veterinarian may allow cloacal swab or environmental testing ((for salmonella)) in lieu of blood testing ((as appropriate)) for certain species of ratites. Any person who sells poultry or hatching eggs as ((Salmonella)) pullorum-typhoid free must qualify ((such)) under the provisions of this rule ((Provided, however, That eggs for table consumption and stock for immediate slaughter, or shipments consigned to a diagnostic laboratory or research institute approved by Washington state department of agriculture, shall be)). Exempt from pullorum-typhoid requirements ~~((contained in this order))~~ are:

(a) Eggs for table consumption;

(b) Poultry for immediate slaughter; and

(c) Shipments consigned to a diagnostic laboratory or research institute approved by the department.

(2) **Infectious laryngotracheitis; infectious coryza:** ~~((No poultry shall be transported, shipped or otherwise intro-~~

PROPOSED

~~duced into the state that have been naturally infected with or exposed to poultry naturally infected with field strains of infectious laryngotracheitis or infectious coryza or vaccinated with virulent laryngotracheitis or infectious coryza vaccines, except upon a permit from the director of agriculture and subject to quarantine at destination. Such) Poultry cannot be imported if naturally infected or exposed to natural infection with infectious laryngotracheitis or infectious coryza. Such poultry can be imported under permit from the state veterinarian. The shipment can only be moved into the state when accompanied by an official federal form VS1-27 completed and signed by a federal or state veterinarian. The shipment will be quarantined once it reaches its Washington destination. A permit(*) will be granted ~~((only))~~ when available ~~((authentic))~~ information indicates that the poultry to be transported will not present a disease hazard to state of Washington flocks~~((: Provided, however, That eggs for table consumption from flocks naturally infected with field strains of infectious laryngotracheitis or infectious coryza or vaccinated with virulent laryngotracheitis or infectious coryza vaccines, when washed and sanitized by methods required by the state veterinarian after consultation with Washington state poultry pathologists, stock for immediate slaughter or stock consigned to a diagnostic or research laboratory approved by Washington state department of agriculture shall be exempt)). Exempted from the infectious laryngotracheitis~~ ((*) and infectious coryza requirements ~~((contained in this order: Provided further, That))~~ are:~~

(a) Poultry for immediate slaughter:

(b) Poultry consigned to a diagnostic laboratory or research institute approved by the department; and

(c) Eggs for table consumption from flocks naturally infected or vaccinated with virulent vaccines. To meet this exemption, eggs for table consumption must be washed and sanitized by methods required by the state veterinarian after consultation with Washington state poultry pathologists. Crates, equipment, and packaging material used for ((such)) transportation ~~((are))~~ must be cleaned and ((sterilized)) ~~disinfected~~ to the department's satisfaction ~~((of Washington state department of agriculture authorities))~~ or must be burned before leaving the slaughter, diagnostic, or egg processing premises. If crates, equipment and packaging material cannot be burned, they must be disposed of by a method in compliance with local air quality standards that still provide for destruction of pathogens.

(3) **Ornithosis:** Poultry and eggs ~~((from flocks in which))~~ are not to be imported into or moved intrastate in Washington if ornithosis is suspected or has been diagnosed ~~((shall not be imported into or moved intrastate in the state of Washington except on written permit from the Washington state department of agriculture)).~~ The state veterinarian may make an exception and issue a permit for importation or movement after proper treatment with a recommended antibiotic and observation of the appropriate withdrawal time.

AMENDATORY SECTION (Amending Order 997, Regulation 6, filed 1/21/66)

WAC 16-59-060 Shipping equipment. (1) All poultry ~~((to))~~ must be moved only in clean containers. All crates or

other containers used to transport ~~((or otherwise convey))~~ live poultry into or within the state of Washington must be either new or thoroughly cleaned and ~~((thereafter))~~ disinfected and then washed with steam or hot water under pressure.

(2) All common carriers and any other conveyances used in the transportation of live poultry to or from the receiving station or ~~((point of))~~ destination ~~((shall))~~ must be free from poultry droppings, feathers and other debris.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-59-070

Penalty provisions.

WSR 99-03-086

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed January 20, 1999, 9:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-103.

Title of Rule: Chapter 16-89 WAC Sheep and goat scrapie disease control.

Purpose: The proposed new chapter 16-89 WAC requires that every blackface or blackface crossbred breeding sheep over one year of age be identified with a Washington flock identification number. The state program is strictly a control and eradication program and does not lead to flock certification.

Statutory Authority for Adoption: RCW 16.36.040.

Statute Being Implemented: RCW 16.36.020, [16.36.]040, [16.36.]050, [16.36.]096, and [16.36.]100.

Summary: Chapter 16-89 WAC adopts the federal standards of the USDA Voluntary Scrapie Flock Certification Program Standards as a voluntary program. In addition there is mandatory identification of blackface breeding stock, quarantine of infected and high risk animals, restrictions on exposed flocks, defines source flocks, restricts entry of exposed, suspect and high risk animals, requires reporting of suspected and confirmed cases of scrapie by owners, veterinarians and diagnostic laboratories. Condemnation and destruction of scrapie infected animals or flocks are allowed and provides for indemnification if funds are available.

Reasons Supporting Proposal: Scrapie is an insidious, fatal neurological disease of sheep and goats. The disease agent has not been definitively characterized. The incubation period is very long, usually over eighteen months. There is no treatment, and the disease is always fatal. Currently there is no live animal diagnostic test for the presence of the disease. Diagnosis is made by observation of characteristic signs in the live animal and is confirmed by post-mortem examination of brain tissue.

Name of Agency Personnel Responsible for Drafting: Robert W. Mead, DVM, 1111 Washington Street, Olympia,

98504, (360) 902-1881; Implementation and Enforcement: Kathleen M. Connell, DVM, 1111 Washington Street, Olympia, 98504, (360) 902-1835.

Name of Proponent: Washington Department of Agriculture, Washington Sheep Producers, Washington Cattle-men's Association, Washington Dairy Federation, private and governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Changes to chapter 16.36 RCW made reporting of scrapie mandatory. Implementation will be phased in over several years with enforcement primarily at livestock sale-yards and other points of livestock concentration. Costs to the animal health program will be minor and can be absorbed.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The sheep industry has named scrapie as one of its foremost problems. This rule will help identify infected sheep of blackfaced breeds back to their flock of origin that is important because of the long incubation period. Infected flocks will be quarantined and cleaned up by eradication or moving into the voluntary federal control program. The overall purpose of the rule is to maintain Washington state with no known infected flocks and to prevent the further import and movement of infected or exposed animals.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not impose more than minor costs on more than 20% of all industries or more than 10% of any one industry. The only cost imposed by the rule is the cost of identifying animals. The cost per individual animal will vary from a few cents with labor for a tattoo, \$1.00 for a tag, or \$6.00 for an implanted electronic device all at an individual option of the owner. Approximately 3,000 blackface flocks of a total of 30,000 sheep flocks could be affected with an average of twenty animals per flock. Cost per affected flock is estimated to be less than \$50.00. The cost for youth flocks has been mitigated by the department providing the eartags to 4-H, FFA or other organized youth projects. Less than one infected flock could be expected to be detected each year based on previous history. Owners of animals destroyed because of scrapie infection may be indemnified by the department. The program has been requested by the organized sheep industry and developed with their input. Only voluntary expenses are involved with the federal Voluntary Scrapie Flock Certification Program.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Cafeteria Conference Room, First Floor, Natural Resources Building, 1111 Washington Street, Olympia, WA 98504-2577, on February 23, 1999, at 1:45 p.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by February 23, 1999, TDD (360) 902-1996, or (360) 902-1878.

Submit Written Comments to: Robert W. Mead, DVM, State Veterinarian, P.O. Box 42577, Olympia, WA 98504-2577, fax (360) 902-2087, by February 22, 1999.

Date of Intended Adoption: April 15, 1999.

January 19, 1999
Candace Jacobs, DVM
Assistant Director

Chapter 16-89 WAC

SHEEP AND GOAT SCRAPIE DISEASE CONTROL

NEW SECTION

WAC 16-89-005 Purpose. (1) Scrapie is an insidious, fatal neurological disease of sheep and goats. The disease agent has not been definitively characterized. The incubation period is very long, usually over eighteen months. There is no treatment, and the disease is always fatal. Currently there is no live animal diagnostic test for the presence of the disease. Diagnosis is made by observation of characteristic signs in the live animal and is confirmed by post-mortem examination of brain tissue.

(2) The United States Department of Agriculture (USDA) Voluntary Scrapie Flock Certification program is designed to monitor flocks and certify the scrapie status of the animals that are enrolled in the program. Any sheep or goat owner may apply to the USDA Veterinary Services area office in Olympia, Washington to participate in this program. It requires individual animal identification, keeping of good records, the reporting of acquisitions and deaths of animals to the USDA, Animal and Plant Health Inspection Service (APHIS) veterinary representative and annual inspections by the APHIS veterinary representative. At the end of five years, if all criteria have been met, the flock may be certified as being free of scrapie, as long as the flock remains on the USDA Voluntary Scrapie Flock Certification Program.

(3) The Washington state scrapie program requires that every blackface or blackface crossbred breeding sheep which is one year or older be identified with a Washington state flock identification number. Ninety seven percent of all diagnosed scrapie cases in the United States have occurred in blackfaced breeds or crosses although whitefaced individuals can occasionally be susceptible. Blackface or blackface crossbred breeding stock of any age must be identified before transfer of ownership or possession. Few records need to be maintained, no reports of deaths or new acquisitions are required. The program is strictly a control and eradication program and does not lead to flock certification.

Enrollment in the USDA Voluntary Scrapie Flock Certification Program will fulfill the requirements of the Washington state program.

NEW SECTION

WAC 16-89-010 Definitions. For the purposes of this chapter:

(1) "Director" means the director of agriculture of the state of Washington or his or her duly authorized representative.

PROPOSED

(2) "Department" means the Washington state department of agriculture.

(3) "Blackface breeding stock" means intact male or female sheep of blackface breeds and intact male or female sheep that are crosses of blackface and other breeds of sheep.

(4) "Flock" means a number of animals of sheep or goat species which are kept, fed and herded together having single or multiple ownership. The term "flock" shall be interchangeable with the term "herd" and shall apply to purebred and commercial sheep.

(5) "Washington flock identification number" means a unique flock identification number assigned to the owner or owners of each flock of blackface breeding sheep in the state of Washington.

(6) "Official individual identification" means the unique identification of individual animals with an alphanumeric number applied as a tamper proof tag, tattoo, electronic device, or other tag approved by USDA or the director. The Washington flock identification number can serve as the official individual identification number if it contains a unique individual animal number in addition to the flock number.

(7) "Scrapie" means a transmissible spongiform encephalopathy that is a nonfebrile, transmissible, insidious, degenerative disease affecting the central nervous system of sheep and goats.

(8) "Scrapie exposed animal" means any animal, which has been in the same flock at the same time within the previous sixty months as a scrapie positive animal excluding limited contacts. Limited contacts are contacts between animals that occur off the premises of the flock and do not occur during or up to sixty days after parturition for any of the animals involved. Limited contacts do not include commingling or transportation to other flocks for the purposes of breeding. Examples of limited contacts include incidental contact in the show/sales ring. (See Appendix III of USDA's Voluntary Scrapie Flock Certification Program.)

(9) "Scrapie high risk animal" means an animal determined by epidemiologic investigation to be a high risk for developing clinical scrapie because the animal was the progeny of a scrapie-positive dam, was born in the same contemporary lambing group as a scrapie-positive animal or was born in the same contemporary lambing group as progeny of a scrapie-positive dam. Based upon evidence from the latest research information available and upon recommendation of the state scrapie certification board, animals that fit the criteria for high risk animals may be exempted by the director as high risk animals if they are determined by genetic testing to be QR or RR at the 171 codon or are determined by other recognized testing procedures to pose no risk.

(10) "Scrapie infected flock" means any flock in which a scrapie-positive animal has been identified by a state or federal animal health official.

(11) "Scrapie positive animal" means an animal for which a diagnosis of scrapie has been made by the National Veterinary Services Laboratories, USDA, laboratories accredited by the American Association of Veterinary Laboratory Diagnosticians (AAVLD) or another laboratory authorized by state or federal officials to conduct scrapie tests through histological examinations of central nervous system or by other diagnostic procedures approved for scrapie diag-

nosis by USDA. Animals diagnosed by experimental tests for abnormal prion will not be considered infected animals for the purposes of this rule.

(12) "Scrapie source flock" means a flock in which an animal was born and subsequently diagnosed as scrapie-positive at less than fifty-four months of age.

(13) "Voluntary scrapie flock certification program" means a national voluntary program for classification of flocks relative to scrapie.

NEW SECTION

WAC 16-89-015 Scrapie program standards. The USDA Voluntary Scrapie Flock Certification Program Standards, dated October 1, 1992, as amended October 17, 1997, and Scrapie in Sheep and Goats, Title 9, Code of Federal Regulations, Parts 54 and 79 as revised January 1, 1997, are adopted by reference as the basic standards for the scrapie control and eradication program in Washington state. Copies of these documents are on file at the Washington Department of Agriculture, Division of Food Safety/Animal Health, 1111 Washington Street, Olympia, Washington 98504 and are available on request.

NEW SECTION

WAC 16-89-020 Identification of blackface breeding stock. (1) The state veterinarian will designate the form and content of the Washington state flock identification number, approve identification devices for utilization of the flock identification number, assure availability of flock identification devices, and assign Washington flock identification numbers to owners or possessors of blackface breeding stock.

(2) Owners and possessors of blackface breeding stock will bear the costs of obtaining the identification devices and placing the device in or on the animal except the department may provide tamper proof eartags to 4-H, FFA or other organized youth projects dependent upon the availability of funds. The department may also provide such tags for cooperative research programs and under the provisions of other inter-agency agreements.

(3) All owners or possessors of blackface breeding stock in Washington state must identify all blackface breeding stock in the flock which are one year of age or older with a Washington state flock identification number. Blackface breeding stock of any age will be identified with a flock identification number before transfer of ownership or possession.

(4) Blackface breeding stock imported into the state will be identified with a flock identification number within sixty days after entry into the state.

(5) Blackface breeding stock of any age must be identified with a flock identification number prior to movement of such sheep from the premises of origin for show, sale, purchase or other movement.

(6) Blackface breeding stock sold within the state must retain the original flock identification number. In the event an animal loses a flock identification device, the owner of the animal must reidentify the animal with his or her flock identification number and must maintain records to document the original and new flock identification numbers.

(7) Acceptable devices for application of the flock identification number to blackface breeding stock will include: Tamper proof ear tags bearing the flock identification number, legible tattoos bearing the flock identification number, electronic devices with owner records correlated to the flock identification number, approved voluntary scrapie flock certification program identification devices, and other identification devices approved by the state veterinarian.

(8) Blackface animals exempt from the state requirement for identification with a state flock identification number will include:

(a) Neutered animals.

(b) Sexually intact market lambs consigned directly to an approved slaughter facility or consigned directly to an approved lamb feedlot for finish feeding for slaughter only. Animals in approved feedlots may be removed only to approved slaughter facilities or other approved feedlots. Owners or livestock dealers delivering market lambs to Washington state slaughter facilities or approved feedlots must provide to the managers of such facilities the Washington flock numbers from which the market lambs have originated. A record of the flock numbers must be maintained for two years and available for review by the director.

(c) Lambs under one year of age that have not been sold or transferred to the possession of another person or entity.

(d) Sheep over one year of age that have not been sold or transferred to the possession of another person where management practices preclude applying the identification devices within the flock. This exemption must be specifically approved by the state veterinarian for each flock.

(e) Blackface animals within a flock enrolled in the federal Voluntary Scrapie Flock Certification Program.

NEW SECTION

WAC 16-89-030 Quarantine. Infected and source flocks or flocks that have received high risk animals must be placed and held under quarantine until the infected or high risk animals have been depopulated or the flock has qualified for and has been enrolled in the voluntary scrapie flock certification program. Flocks not participating in the certification program will remain under quarantine until the entire flock has been slaughtered or depopulated. Infected or high risk animals must be destroyed by means other than by slaughter under the direction of the state veterinarian.

NEW SECTION

WAC 16-89-040 Restriction of exposed animals. Scrapie exposed flocks and animals from exposed flocks will be placed under a hold order when the flocks or animals are determined by the state veterinarian to be exposed. During the seven-day duration of the hold order, an epidemiological investigation will be conducted on the flock or animals to determine the risk of infection with scrapie. Flocks or animals determined by a scrapie epidemiologist to pose a substantial risk to other flocks will be maintained under a quarantine order until the flock has fulfilled Section III of the voluntary scrapie flock certification program standards or been depopulated.

NEW SECTION

WAC 16-89-050 Scrapie source flocks. A single trace to a flock must meet the following criteria to designate the flock as a source flock:

The scrapie positive animal must:

(1) Be identified with a Washington state flock identification number on a tamper proof tag; or an official eartag, electronic device, ear tattoo, or flank tattoo which is correlated to the Washington state flock identification number on flock records; or

(2) Be identified by genetic testing; or

(3) Possess the original registry eartag or individual identification ear tag along with the movement, production, and registry records indicating birth in the source flock; or

(4) Be traced to the flock by a veterinary epidemiologist through a thorough epidemiological investigation of records and all other available evidence.

NEW SECTION

WAC 16-89-060 Movement and disposition of restricted animals. Animals other than infected and high risk animals from infected and source flocks may be moved from the quarantined premises with approval of the director only under the following conditions:

(1) By written permission the director may allow the animals to be moved under quarantine to other preapproved locations. The animals must be moved in sealed vehicles or be accompanied in transit by representatives of the director in lieu of individual identification. Animals moved under quarantine will remain under quarantine at the new location.

(2) Infected animals and high risk animals may only be moved from the quarantined premises for destruction under the supervision of the state veterinarian or to an approved research facility by permission of the director.

NEW SECTION

WAC 16-89-070 Importation of exposed, suspect and high risk animals. As defined in the basic standards for the scrapie control and eradication program, sheep and goats that are scrapie suspect, exposed, high risk animals or flock mates from scrapie infected, source, trace or exposed flocks, will not be allowed entry into Washington state except to approved scrapie research facilities. All animals must be individually identified by official identification tattoos, tags, or devices on a VS 1-27 or other approved movement document.

NEW SECTION

WAC 16-89-080 Reporting scrapie. Suspected and confirmed cases of scrapie must be reported by owners, veterinarians and diagnostic laboratories by phone or fax to the state veterinarian's office the next working day after suspecting or confirming scrapie in any sheep or goat.

PROPOSED

NEW SECTION

WAC 16-89-090 Condemnation and destruction of scrapie infected animals or flocks. Animals or flocks determined by the director or representatives of USDA to be infected with scrapie may be condemned and destroyed by order of the director. The disposal of condemned scrapie infected animals and flocks will be under the direction of the director and the means of disposal will be other than by offering for human or animal consumption.

NEW SECTION

WAC 16-89-100 Indemnification. (1) Owners, individuals, partnerships, corporations or other legal entities whose animals or flocks have been destroyed or otherwise disposed of by order of the director may be eligible for indemnification in the form of cash payment for part of the value of the animals destroyed or otherwise disposed of and for reasonable actual costs for burial or disposal of animal carcasses.

(2) Indemnity payments will be paid only to an owner of sheep or goats that were born in the state of Washington or were imported into the state in compliance with existing Washington state statutes and rules. Payment of indemnity does not apply to animals belonging to the federal government or any of its agencies, this state or any of its agencies, or any municipal corporation.

(3) The amount of indemnity to be paid for each animal will be determined by the state veterinarian and will not exceed seventy-five percent of the appraised value of the animal up to the following maximum amounts:

(a) Ewes or does one year of age or older - three hundred dollars per head.

(b) Rams or billies one year of age or older - six hundred dollars per head.

(c) Lambs or kids under one year of age - one hundred twenty-five dollars per head.

(4) In addition to the indemnity payments authorized in subsection (3) of this section, owners who voluntarily destroy rams found to be genetically prone to scrapie will be paid up to twenty-five dollars of the laboratory diagnostic fee.

NEW SECTION

WAC 16-89-110 Cleaning and disinfection. Barns, sheds, stockyards, trucks, ferry boats and other vehicles, feed yards, stable pens, corrals, lanes and premises which have been used in confining, trailing, or transporting any sheep or goat affected or infected with any contagious, infectious or communicable diseases, will be cleaned and disinfected under state or federal supervision as directed by the state veterinarian. The owner of such premises, conveyances, or carriers will be responsible for such cleaning and disinfecting and their costs.

NEW SECTION

WAC 16-89-120 Concealing the disease. It is unlawful for any owner to fail to report or to attempt to conceal the

existence of any transmittable spongiform encephalopathy such as the disease scrapie.

WSR 99-03-087**PROPOSED RULES****DEPARTMENT OF AGRICULTURE**

[Filed January 20, 1999, 9:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-08-022 and 98-24-102.

Title of Rule: Chapter 16-86 WAC, Brucellosis, tuberculosis and scrapie in cattle, sheep and goats.

Purpose: The purpose of chapter 16-86 WAC is to lay out rules for the control and surveillance of brucellosis and tuberculosis in cattle and goats. The section on scrapie in sheep is being removed and a new scrapie rule (chapter 16-89 WAC) is being proposed as a new rule.

Statutory Authority for Adoption: RCW 16.36.040.

Statute Being Implemented: RCW 16.36.020, [16.36.]040, [16.36.]050, [16.36.]096, and [16.36.]100.

Summary: New definitions for adult vaccinate and calf-hood vaccinate and mature vaccinate are added. Language for grazing permits is clarified. Language for disinfecting vehicles is clarified and the indemnity levels for cattle are raised.

Reasons Supporting Proposal: Modernizes the rules, reduces some regulatory burden, removes unnecessary language. The department is proposing rule changes on scrapie which are included in a new chapter. In addition the rule incorporates a pilot rule project that was conducted from June 1, 1998, to November 30, 1998. Amounts of indemnity payments are raised for cattle to the levels set by RCW 16.36.096.

Name of Agency Personnel Responsible for Drafting: Robert W. Mead, DVM, 1111 Washington Street, Olympia, 98504, (360) 902-1881; Implementation and Enforcement: Kathleen M. Connell, DVM, 1111 Washington Street, Olympia, 98504, (360) 902-1835.

Name of Proponent: Washington Department of Agriculture, Washington Sheep Producers, Washington Cattlemen's Association, Washington Dairy Federation, private and governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: There will be a net reduction in regulations for brucellosis and language for tuberculosis control is modernized. Pilot rules are made permanent and scrapie rules are to be adopted as a separate WAC.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules will allow the vaccination of mature cattle with the new vaccine SRB51 against the disease brucellosis. For many years, this state has relied upon the vaccine S19 that was restricted to cattle between four months to from eight to twelve months maximum. The restrictions on use of this vaccination are in place due to it producing antibodies

that are measured by the common diagnostic tests used to detect brucellosis. All mature nonvaccinate animals can only be sold to slaughter. Also, in spite of the restrictions and precautions taken by the industry, approximately 50% of the animal health budget is spent tracing and testing herds because of vaccine induced positive animals although Washington state has been free of brucellosis since 1986.

Other proposed changes will make the rules more readable and understandable. Obsolete sections and language have been removed. Rules relating to scrapie are being consolidated in a new chapter.

Proposal Changes the Following Existing Rules: The changes modernized and bring up to date the brucellosis and tuberculosis rules for cattle and goats. Scrapie rules for sheep is removed from chapter 16-86 WAC and will be placed in a new chapter 16-89 WAC. Under the changes female cattle above twelve months of age may be vaccinated for brucellosis. The RB-51 vaccine rules were tested under a pilot rule project.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule changes impact those with certain classes of cattle that have not been vaccinated. Being able to vaccinate mature animals increases their value upon sale which far exceeds any drawbacks to the rule changes such as the extra cost of blood testing and vaccine costs.

The department conducted a pilot project on the proposed rules to determine the feasibility of the use of the vaccine in Washington state. A copy of the report can be obtained from Dr. Robert Mead, P.O. Box 42577, Olympia, WA 98504-2577.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Cafeteria Conference Room, First Floor, Natural Resources Building, 1111 Washington Street, Olympia, WA 98504-2577, on February 23, 1999, at 1:25 p.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by February 23, 1999, TDD (360) 902-1996, or (360) 902-1878.

Submit Written Comments to: Robert W. Mead, DVM, State Veterinarian, P.O. Box 42577, Olympia, WA 98504-2577, fax (360) 902-2087, by February 22, 1999.

Date of Intended Adoption: April 15, 1999.

January 20, 1999
Candace Jacobs, DVM
Assistant Director

Chapter 16-86 WAC

BRUCELLOSIS~~(S)~~ AND TUBERCULOSIS ((~~AND~~ ~~SCRAPIE~~)) IN CATTLE~~(S)~~ AND GOATS ((~~AND~~ ~~SHEEP~~))

AMENDATORY SECTION (Amending Order 2035, filed 4/30/90, effective 5/31/90)

WAC 16-86-005 Definitions. For purposes of this chapter:

~~((1) "Director" means the director of agriculture of the state of Washington or his duly authorized representative.~~

~~(2) "Department" means the Washington state department of agriculture.~~

~~(3) "Accredited veterinarian" means a veterinarian licensed to practice veterinary medicine, surgery, and dentistry in the state of Washington and approved by the United States Department of Agriculture veterinary services to participate in state-federal cooperative programs.~~

~~(4) "Official calfhood vaccinate" means a female bovine animal vaccinated between the ages of four and twelve months (one hundred twenty days to three hundred sixty five days) for beef breed cattle and between the ages of four and eight months (one hundred twenty days to two hundred forty days) for dairy breed cattle with an approved brucella vaccine.~~

~~(5) "Approved brucella vaccine" means only those biological products that are approved by and produced under license of the United States Department of Agriculture for injection into cattle for the purpose of enhancing their resistance to brucellosis.~~

~~(6) "Registry tattoo" means a tattoo identifying the individual as a registered animal within the breed association.~~

~~(7) "Vaccination tattoo" means the United States registered shield and V preceded by a number indicating the quarter of the year and followed by a number corresponding to the last digit of the year in which vaccination was done.~~

~~(8) "Scrapie infected flock" means a flock of sheep or goats in which the disease scrapie has been diagnosed positive in one or more animals by the National Veterinary Service Laboratory (NVSL-); (1) "Accredited veterinarian" means a veterinarian licensed to practice veterinary medicine, surgery, and dentistry in the state of Washington and approved by the United States Department of Agriculture (USDA) veterinary services to participate in state-federal cooperative programs.~~

(2) "Adult vaccination" means the whole herd vaccination of a herd infected with or exposed to the Brucella abortus organism when conducted under a herd plan agreed to by the owner and the director. A USDA approved adult dosage brucella vaccine will be used to vaccinate all female cattle in the herd above twelve months of age.

(3) "Approved brucella vaccine" means only those biological products that are approved by and produced under license of the USDA for injection into cattle for the purpose of enhancing their resistance to brucellosis.

(4) "Department" means the Washington state department of agriculture.

PROPOSED

(5) "Director" means the director of agriculture of the state of Washington or his or her duly authorized representative.

(6) "Immediate slaughter" means delivery within seven days to an inspected slaughter facility or restricted feedlot as defined in chapter 16-30 WAC and operating under the permission of the director.

(7) "Official calfhood vaccinate" means a female bovine animal vaccinated with an approved brucella abortus vaccine such as strain 19 vaccine or RB-51 vaccine at a calfhood dose between the ages of four and twelve months of age (one hundred twenty days to three hundred sixty-five days).

(8) "Official mature vaccinate" means a female bovine over the age of twelve months vaccinated with an approved adult dosage brucella vaccine under directions issued by the state veterinarian. Mature vaccinates must be blood tested for brucellosis at the time of vaccination and a copy of the test chart submitted to the state veterinarian with the vaccination record.

(9) "Registry tattoo" means a tattoo identifying the individual as a registered animal within the breed association.

(10) "Vaccination tattoo" means the United States registered shield and V preceded by a number indicating the quarter of the year and followed by a number corresponding to the last digit of the year in which the animal was vaccinated with strain 19 brucella vaccine. For strain RB-51 calfhood vaccination an R precedes the shield and V. In the case of strain RB-51 mature vaccination an M precedes the shield and V. In the case of strain RB-51 adult vaccination an A precedes the shield. For strain RB-51 vaccinates, the last number of the tattoo corresponds to the last digit of the year in which vaccine was administered.

AMENDATORY SECTION (Amending Order 6009, filed 12/16/96, effective 1/16/97)

WAC 16-86-015 Washington cattle sale requirements. (1) Effective January 1, 1984, within thirty days prior to any change of ownership and in a manner prescribed by the state veterinarian, all dairy breed cattle shall be tested negative for brucellosis. The following classes of cattle are exempt from this test requirement:

- (a) Calves under four months of age.
- (b) Cattle sold or consigned to a restricted feedlot.
- (c) Cattle sold or consigned to a federally inspected slaughter plant.
- (d) Steers and spayed heifers.
- (e) Official calfhood vaccinates under twenty months of age and not parturient or post parturient.

(f) Official Washington or Canadian calfhood vaccinates under thirty months of age as evidenced by less than full development of the lower permanent second incisors. This exemption applies only to Washington resident cattle which bear an eartag showing a Washington vaccination (91 V series) or a Canadian vaccination certificate. Subdivision (e) of this subsection applies to all other female dairy breed cattle unless exempted by (a), (b), (c) or (d) of this subsection. Cattle exempted under this subsection may be tested if requested by a prospective buyer or to meet import requirements of another state or foreign country.

(2) All female cattle shall be (~~officially vaccinated against brucellosis~~) an official calfhood or Washington mature vaccinate and bear a legible vaccination tattoo prior to being sold or introduced into any breeding herd in the state of Washington. This rule does not apply to the following:

(a) Calves under four months of age. Female calves under four months acquired by any herd and natural female additions must become official calfhood vaccinates or official Washington mature vaccinates, as provided for in this chapter, to be sold for any purpose other than those set forth in (b), (c), (d), (~~(e)~~) (e), or (f) of this subsection.

(b) Cattle sold or consigned to a restricted feedlot.

(c) Cattle sold or consigned to a federally inspected slaughter plant.

(d) Cattle sold or consigned to a public livestock market for immediate slaughter only.

(e) Spayed heifers.

(f) Cattle sold to buyers in states or countries without brucellosis vaccination requirements.

(3) All Washington cattle shall be individually identified and permanently recorded as to herd of origin prior to being sold or consigned for slaughter. Such identity shall be transferred to the blood sample taken for market cattle identification (MCI) test purposes. These records shall be made available to the department upon request. The following classes of cattle shall be exempt from these requirements:

(a) Cattle under twenty-four months of age (~~(-)~~) and not parturient or post parturient.(~~(?)~~)

(b) Steers and spayed heifers.

AMENDATORY SECTION (Amending Order 1539, filed 10/17/77)

WAC 16-86-017 Grazing permits. Washington herd owners desiring to move cattle interstate for grazing purposes and return to Washington shall request a permit for such movement from the animal health (~~(division)~~) program of the department (~~(of agriculture)~~). The state to which the animals are to be moved for grazing must approve the movement. A separate permit must be obtained from the animal health (~~(division)~~) program for the return of such cattle. (~~(Animals grazed in counties or areas in which brucellosis has been diagnosed during the grazing period shall, upon returning to Washington, be held separate from all other cattle and brucellosis tested at owner's expense.)~~) Grazing permits will be issued only for movements to states which are class free or A for brucellosis and which share common borders with the state of Washington. Cattle moving interstate on grazing permits are generally exempt from interstate health certificate and testing requirements unless required by the state veterinarian in either state due to changing disease conditions. Cattle moving interstate on grazing permits must meet the brand or animal identification requirements of each state before interstate movement.

AMENDATORY SECTION (Amending Order 1539, filed 10/17/77)

WAC 16-86-020 Quarantine. All cattle or goats that are infected or suspected of being infected with brucellosis or

tuberculosis after an official test shall be quarantined as provided by law. ~~((All cattle or goats, the))~~ If owners ~~((of which))~~ refuse to allow the department to test for the above diseases, ~~((shall))~~ all cattle or goats will be regarded as a menace to the health of livestock, and the premises on which they are kept shall be immediately quarantined and no animals or products of such animals shall be removed from the premises as outlined in RCW ~~((16.40.010))~~ 16.36.010.

AMENDATORY SECTION (Amending Order 1964, filed 2/5/88)

WAC 16-86-030 Sale of quarantined animals. (1) No person shall sell or offer for sale any cattle from a brucellosis quarantined herd except steers and spayed heifers for other than immediate slaughter or for consignment to a state-federal approved sales yard for immediate slaughter ~~((: Provided, That prior to))~~. Before consignment to a state-federal approved sales yard, the cattle ~~((shall))~~ must be "S" branded and shall only be moved from the brucellosis quarantined herd when accompanied by an official federal form number VSI-27.

(2) Cattle from a tuberculosis quarantined herd ~~((shall))~~ must not be sold or offered for sale except for immediate slaughter.

AMENDATORY SECTION (Amending Order 1958, filed 11/18/87)

WAC 16-86-040 Quarantine and release. (1) Brucellosis:

(a) Any herd of cattle or goats in which brucellosis reactors are found will be quarantined. Positive or reactor classification shall be based on standards listed in *U.S. Department of Agriculture Uniform Methods and Rules for Brucellosis Eradication*. Animals positive to the brucellosis test ~~((shall))~~ must not be sold or offered for sale except for immediate slaughter. Quarantined animals may only be moved when accompanied by an official form number VSI-27. The quarantine will be released when the entire quarantined herd has passed two consecutive negative blood ~~((agglutination))~~ tests without reactors ~~((:))~~. The first test ~~((to))~~ must be not less than thirty days following removal of all reactors from the herd and the second test not less than ninety days nor more than one year following the date of the previous test. Steers, spayed heifers and officially vaccinated dairy animals under twenty months of age and officially vaccinated beef animals under twenty-four months of age need not be tested.

(b) Adult vaccination may be used as a whole herd vaccination under the terms of a herd plan and based on the standards listed in *U.S. Department of Agriculture Uniform Methods and Rules for Brucellosis Eradication* dated May 6, 1992, and revised February 2, 1993, and June 16, 1994.

(2) Tuberculosis:

(a) Any herd of cattle or goats in which tuberculosis reactors are found will be quarantined and except for immediate slaughter the sale or removal of any animal out of such herds ~~((, except for immediate slaughter))~~ is prohibited. Herds in which only no gross lesions (NGL) reactor(s) occur and in which no evidence of *Mycobacterium bovis* infection has

been disclosed may be released from quarantine after a sixty-day negative caudal fold retest of the entire herd.

(b) Herds containing one or more suspects to the caudal fold tuberculosis test shall be quarantined until the suspect animals are:

(i) Retested by the comparative-cervical tuberculosis test within ten days of the caudal fold injection and the tuberculosis status of the suspect(s) has/have been determined; or

(ii) Retested by the comparative-cervical tuberculosis test after sixty days and the tuberculosis status of the suspect(s) has ~~((have))~~ have been determined; or

(iii) Shipped under permit directly to slaughter in accordance with state or federal laws and regulations and the tuberculosis status of the suspect(s) has/have been determined.

(c) Herds in which *Mycobacterium bovis* infection has been confirmed and the herd has not been depopulated ~~((shall))~~ will remain under quarantine and must pass two tuberculin tests at intervals of at least sixty days and one additional test after six months from the previous negative test. These herds will also be subject to five annual tests on the entire herd following the release from quarantine.

AMENDATORY SECTION (Amending Order 1681, filed 3/25/80)

WAC 16-86-055 Disinfecting vehicles. (1) When a vehicle is used to transport brucellosis reactor animals or brucellosis exposed animals from a brucellosis quarantined herd, the vehicle ~~((shall))~~ must be cleaned and disinfected immediately following the unloading of the last animal of each ~~((such))~~ load. ~~((The destination for such reactor or exposed cattle shall have department approved facilities to clean and disinfect vehicles.))~~

(2) ~~((Upon completion of))~~ The cleaning and disinfecting of the vehicle when complete, ~~((approval shall))~~ must be ~~((obtained))~~ approved in writing on form number VSI-27. This approval shall be made by a state ~~((or federal))~~ animal health employee, a federal veterinary services employee or by ~~((an))~~ another authorized representative of the director ~~((of agriculture, on a form approved by the director)).~~

AMENDATORY SECTION (Amending Order 1718, filed 12/17/80)

WAC 16-86-060 Sale of brucellosis reactors. Reactors to a brucellosis test ~~((may))~~ must be moved or sold only to a slaughtering establishment where state-federal approved inspection is maintained. Reactor cattle can only be moved from a quarantine premises by permit from the director or his representative ~~((: Provided, That))~~. Any reactor to a brucellosis test must be marketed for slaughter within fifteen days from the date of tagging and branding.

AMENDATORY SECTION (Amending Order 1958, filed 11/18/87)

WAC 16-86-070 Sale of tuberculosis reactors. Reactors to a tuberculosis test ~~((may))~~ must be moved or sold only to a slaughtering establishment where federal inspection is maintained ~~((: Provided, That))~~. Any reactor to tuberculosis

test must be marketed for slaughter within fifteen days from the date of tagging and branding.

AMENDATORY SECTION (Amending Order 1171, filed 12/15/70)

WAC 16-86-080 Branding and tagging of tuberculosis reactors. Animals positive to the tuberculosis test will be branded by a state or federal veterinarian or ~~((his))~~ their authorized representative with the letter "T" on the left jaw~~((;))~~. The brand is to be not less than two inches nor more than three inches high~~((, and))~~. To further identify the animal or animals ~~((by attaching)), the person branding will also attach~~ to the left ear a metal tag bearing an identifying number and the word "REACTOR." It ~~((shall be))~~ is unlawful for the owner, or his or her authorized representative, to refuse the director ~~((of agriculture or his authorized representative))~~ the right to identify the ~~((reacting))~~ reactor animal or animals by ~~((such))~~ branding and tagging.

AMENDATORY SECTION (Amending Order 1171, filed 12/15/70)

WAC 16-86-090 Branding and tagging of brucellosis reactors. Animals positive to the brucellosis test will be branded by a state or federal veterinarian or his authorized representative with the letter "B" on the left jaw~~((;))~~. The brand to be not less than two inches nor more than three inches high~~((, and))~~. To further identify the animal or animals ~~((by attaching)), the person branding will attach~~ to the left ear a metal tag bearing an identifying number and the word "REACTOR." It ~~((shall be))~~ is unlawful for the owner, or his or her authorized representative to refuse the director ~~((of agriculture or his authorized representative))~~ the right to identify the ~~((reacting))~~ reactor animal or animals by ~~((such))~~ branding and tagging.

AMENDATORY SECTION (Amending Order 1879, filed 3/28/86)

WAC 16-86-092 Indemnity for brucellosis affected or exposed cattle. As provided under RCW 16.36.096, the director ~~((of agriculture))~~ may order the slaughter or destruction of any cattle affected with or exposed to brucellosis. Subject to the availability of sufficient funds, the director may pay an indemnity for any cattle ordered slaughtered or destroyed. When indemnity is approved, the amount that will be paid is ~~((twenty-five dollars))~~ fifty dollars for any grade beef breed female, ~~((fifty))~~ one hundred dollars for any purebred registered beef breed bull or female, ~~((one))~~ two hundred dollars for any grade dairy breed female or ~~((one))~~ two hundred fifty dollars for any purebred registered dairy breed bull or female.

AMENDATORY SECTION (Amending Order 1964, filed 2/5/88)

WAC 16-86-095 Official ~~((calfhood))~~ brucellosis vaccination. (1) An official vaccination report of ~~((calfhood))~~ all brucellosis vaccinations must be made to the department

within thirty days of ~~((occurrence))~~ vaccination. The vaccination report must be made on an approved report form (VS 4-26) issued by the department for the purpose of identifying and recording by official ~~((calfhood))~~ brucellosis vaccination ear tag or registry tattoo ~~((calves))~~ cattle officially brucellosis vaccinated.

(2) All vaccinations must be done by a licensed accredited veterinarian or federal or state employed veterinarian. Vaccinated animals must be permanently identified as vaccines by a vaccination tattoo in the right ear. An official vaccination ear tag or registry tattoo shall be used for individual animal identification.

(3) ~~((A))~~ Brucellosis vaccinations ~~((shall be))~~ are not official until they are reported to the department ~~((before becoming official))~~ on official, completed and signed forms.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-86-093	Indemnity for scrapie infected or exposed sheep or goats.
WAC 16-86-100	Criminal penalty—Civil injunction.

WSR 99-03-088

PROPOSED RULES

TRANSPORTATION IMPROVEMENT BOARD

[Filed January 20, 1999, 10:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-115.

Purpose: To amend rules for administering the federal Transportation Equity Act for the 21st Century (TEA-21) surface transportation program state-wide and enhancement program as directed by the state TEA-21 Steering Committee.

Statutory Authority for Adoption: Chapters 47.26 and 47.66 RCW.

Statute Being Implemented: Chapter 47.66 RCW.

Summary: To define the criteria for eligible projects and develop a process for the submittal of a prioritized list of projects to the legislature and the Office of Financial Management.

Name of Agency Personnel Responsible for Drafting and Implementation: Dan Rude, Transportation Building, (360) 705-7547; and Enforcement: Jerry Fay, Transportation Building, (360) 705-7301.

Name of Proponent: Transportation Improvement Board, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Projects will be selected in March 1999.

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

PROPOSED

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 479-510-410, eligibility for Transportation Equity Act for the 21st Century (TEA-21) surface transportation program; WAC 479-510-420, criteria for TEA-21 surface transportation program; WAC 479-510-450, eligibility for (TEA-21) enhancement program; and WAC 479-510-460, criteria for TEA-21 enhancement program.

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no economic impact on small business. TIB funding programs affect state and local transportation agencies.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Subsection (5)(b)(iii), exempt rules that are the same subject matter as the federal TEA-21 regulations. In this case, the state TEA-21 Steering Committee developed the procedures to be used in these two funding programs. Also, subsection (5)(b)(ii) exempts rules that are not subject to violation by a nongovernment party. Only governments are eligible for these funding programs.

Hearing Location: Department of Transportation, 310 Maple Park Avenue, Olympia, on March 26, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jen-nine Stinbrink by March 15, 1999, (360) 705-7549.

Submit Written Comments to: Fax (360) 705-6830, by March 22, 1999.

Date of Intended Adoption: March 26, 1999.

January 6, 1999

Jerry M. Fay

Executive Director

AMENDATORY SECTION (Amending WSR 95-22-056, filed 10/30/95, effective 11/30/95)

WAC 479-510-410 (~~(Intermodal Surface Transportation Efficiency Act)~~) **Transportation Equity Act for the 21st Century or its successor acts, surface transportation program, state-wide competitive program account—Eligibility.** (1) Eligibility to apply shall be limited to public agencies.

(2) Programs and projects eligible for funding shall be limited to the following purposes:

- (a) Planning;
- (b) Preliminary engineering;
- (c) Right of way acquisition;
- (d) Construction; and
- (e) Capital equipment acquisition.

(3) Projects eligible for funding under the account shall be limited to applications that directly benefit Washington state.

(4) All projects must be regionally significant.

AMENDATORY SECTION (Amending WSR 95-22-056, filed 10/30/95, effective 11/30/95)

WAC 479-510-420 (~~(Intermodal Surface Transportation Efficiency Act)~~) **Transportation Equity Act for the 21st Century or its successor acts, surface transportation**

program, state-wide competitive program account—Criteria. (1) Projects selected for funding from the state-wide competitive program account shall be consistent with the following criteria without regard to geographic distribution:

- (a) Local, regional, and state transportation plans;
- (b) Local transit development plans; and
- (c) Local comprehensive land use plans.

(2) The following criteria shall be considered:

(a) Objectives of the Growth Management Act, the High Capacity Transportation Act, the Commute Trip Reduction Act, transportation demand management programs, federal and state air quality requirements, and federal Americans with Disabilities Act and related state accessibility requirements; and

(b) Energy efficiency issues, freight and goods movement (~~(as related to)~~), economic development, (~~(regional significance)~~) rural isolation, fish passage, flood mitigation, the leveraging of other funds including funds administered by the transportation improvement board, and safety and security issues.

(3) In addition to the criteria identified in subsections (1) and (2) of this section, the transportation improvement board may choose to identify additional criteria for program and project selection for the state-wide competitive program. Such criteria shall be subject to public meetings as required by federal law, and shall be identified in the application guidelines.

(4) The transportation improvement board shall prepare application forms and guidelines to assist eligible applicants and ensure their distribution to all eligible applicants no later than thirty days prior to the date on which the applications must be submitted.

(5) The transportation improvement board shall select projects for the state-wide competitive program and forward the recommended list to the legislature, governor's office, and the Washington state department of transportation on March 26, 1999, and February 1st for each year thereafter.

NEW SECTION

WAC 479-510-450 Transportation Equity Act for the 21st Century or its successor acts, enhancement program account—Eligibility. (1) Eligibility to apply shall be limited to public agencies.

(2) Programs and projects eligible for funding shall be limited to the following purposes:

- (a) Provision of bicycle and pedestrian facilities;
- (b) Acquisition of scenic easement;
- (c) Scenic or historic highway programs (including tourist and welcome center facilities);
- (d) Landscaping and other scenic beautification;
- (e) Historic preservation;
- (f) Rehabilitation and operation of historic transportation buildings, structures or facilities;
- (g) Preservation of abandoned railway corridors;
- (h) Control and removal of outdoor advertising;
- (i) Archaeological planning and research;
- (j) Mitigation of water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity;

PROPOSED

(1) Establishment of transportation museums.

(3) Projects eligible for funding under the account shall be limited to applications that directly benefit Washington State.

NEW SECTION

WAC 479-510-460 Transportation Equity Act for the 21st Century or its successor acts, enhancement program account—Criteria. (1) Projects selected for funding from the enhancement program account shall be consistent with the following criteria:

(a) Local, regional, and state transportation plans;

(b) Local comprehensive land use plans.

(2) The following procedures shall be considered:

(a) Project applications shall be reviewed and regionally prioritized by the regional transportation planning organizations or metropolitan planning organizations and shall be forwarded to the transportation improvement board for selection.

(b) The Washington state department of transportation shall prepare application forms and guidelines to assist eligible applicants and ensure their distribution to all eligible applicants no later than thirty days prior to the date on which the applications must be submitted.

(c) The transportation improvement board shall establish priorities to fund regionally significant projects by allocating 25% of the funds to projects on a statewide basis and the remaining funds based on population distribution to the regional transportation planning organizations or metropolitan planning organizations.

(d) The transportation improvement board shall select projects for the enhancement program and forward the recommended list to the legislature, governor's office and Washington state department of transportation on March 26, 1999 and February 1st for each year thereafter.

WSR 99-03-089

PROPOSED RULES

TRANSPORTATION IMPROVEMENT BOARD

[Filed January 20, 1999, 10:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-114.

Title of Rule: Housekeeping on existing rules; WAC 479-16-020 Standard specifications, 479-16-040 Traffic control devices, 479-16-098 Inclusion of bicycle facilities in Transportation Improvement Board projects, 479-20-007 Matching ratios for urban arterial trust account funds, 479-20-020 Partial or progress payments for project cost, 479-20-025 Records requirements, and 479-20-037 Procedures to request increase in board funds.

Purpose: The rules shown below are being revised to update current language, provide needed language to reflect the current procedures of the TIB programs, and to reflect desired changes in the TIB programs.

Statutory Authority for Adoption: Chapter 47.26 RCW.

Statute Being Implemented: Chapter 47.26 RCW.

Summary: WAC 479-16-020, revised to reflect the current standards; WAC 479-16-040, alerts cities and counties to additional existing requirements; WAC 479-16-098, inclusion of bicycle facilities in transportation improvement account funds; WAC 479-20-007, language needed to be revised to reflect the desired eligibility of the program; WAC 479-20-020, 479-20-025 and 479-20-037, updated the language of the existing rule to accurately describe the agency's procedures.

Reasons Supporting Proposal: Rules need to be revised to reflect current procedures and desired changes in TIB programs.

Name of Agency Personnel Responsible for Drafting and Implementation: Dan Rude, Transportation Building, (360) 705-7547; and Enforcement: Jerry Fay, Transportation Building, (360) 705-7301.

Name of Proponent: Transportation Improvement Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 479-16-020, standards that must be followed in a contract using board money; WAC 479-16-040, requirements for reimbursement of traffic devices; WAC 479-20-007, defines matching ratios for urban arterial trust account; WAC 479-20-020, information regarding progress payments on projects; WAC 479-20-025, the board's requirements to maintain and hold records for projects; and WAC 479-20-037, procedure to obtain an increase in board funds.

Proposal Changes the Following Existing Rules: Same as above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no economic impact on small business. TIB funding programs affect state and local transportation agencies.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Subsection (5)(b)(ii) exempts these rules from the section 201 requirements. In addition, subsection (5)(b)(iv) exempts rules that are housekeeping in nature.

Hearing Location: Department of Transportation, 310 Maple Park Avenue, Olympia, on March 26, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jennine Stinbrink by March 15, 1999, (360) 705-7549.

Submit Written Comments to: Transportation Improvement Board, fax (360) 705-6830, by March 22, 1999.

Date of Intended Adoption: March 26, 1999.

January 6, 1999

Jerry M. Fay

Executive Director

AMENDATORY SECTION (Amending WSR 90-11-035, filed 5/10/90, effective 6/10/90)

WAC 479-16-020 Standard specifications. ((~~Either Standard Specifications for Municipal Public Works Construction, current edition, Washington state chapter, American Public Works Association, or Standard Specifications for Road and Bridge Construction, current edition, state of~~

Washington, revised as to form to make reference to local governments;)) The current edition of the Standard Specifications for Road, Bridge, and Municipal Construction shall be included in any contract entered into by local governments using board funds.

AMENDATORY SECTION (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

WAC 479-16-040 Traffic control devices. Traffic control devices included in a participating project may be installed by the employees and with the equipment and materials of the local governmental units subject to the limits of RCW 35.22.620(3), 35.23.352(1), and 36.77.065(3): *Provided*, That the basis for payment of board funds is reimbursement of the appropriate portion of actual cost of such work, subject to audit.

AMENDATORY SECTION (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

WAC 479-16-098 Inclusion of bicycle facilities in transportation improvement board projects. If an eligible agency has a project funded by transportation improvement board funds that includes the construction of bicycle facilities, the agency shall submit their bikeway plan to the board in map form along with the agency's verification that the plan has been((:

(1) Integrated with existing "user designated," as well as officially designated bikeways.

(2) Integrated with bikeways of adjacent units and levels of government.

(3)) reviewed with, and approved by, the agency's legislative body.

((The total bikeway plan of the agency shall identify separately arterial bikeways, as previously defined, that would be desired to be improved in conjunction with an arterial construction project.

The board shall notify the submitting city or county of its concurrence in the bikeway plan after such plan has been reviewed and found to be reasonable in relation to the rules adopted by the board.)) The proposed bicycle facility shall be in accordance with definitions, criteria, and design standards shown in Chapter 1020 of the *Washington Department of Transportation Design Manual*.

AMENDATORY SECTION (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

WAC 479-20-007 Matching ratios for urban arterial trust account funds. Urban arterial trust account funds for local agency arterial projects shall be matched in accordance with the following scheduled percentage of the total project cost.

((City with a population from 5,000 to 9,999 or a 3rd Class county or smaller)) All urban cities with a population less than 10,000 - 10% match

City with a population from 10,000 to 14,999 or a 1st or 2nd Class county - 15% match

City with a population from 15,000 and up or a Class A((A)) county and over - 20% match

AMENDATORY SECTION (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

WAC 479-20-020 Partial or progress payments for project costs. Participation and payment of board funds to counties and cities shall be governed by the following:

(1) Board participation. Board funds shall not participate in any cost which is not incurred in conformity with all applicable federal and state law and the rules, regulations and procedures as may be prescribed by the board promulgated in conformity with the statutes.

(2) Project agreements. Projects for which board funds are requested by the eligible agencies and for which the board has allocated funds will be the subject of a project agreement to be entered into by the eligible agency with the board evidencing acceptance of the conditions to payment of funds, as prescribed by laws and regulations, and the amount of funds to be obligated.

(3) Changes in project work and cost. No material change in the termini, character, or scope of the work on an approved project shall be made without prior concurrence in such changes by the board.

(4) Payments. Eligible agencies are to submit requests for payment of funds claimed to be due on approved projects. Such requests are to be on forms prescribed by the board, and shall be certified and accompanied by supporting data as may be required by the board. Requests for payment may be submitted from time to time as the work progresses and final requests shall be submitted within six months of contract completion. Payment of TIB funds shall at no time exceed the ((board's share)) approved amount of the project costs incurred to the date of the payment request.

(5) Compliance with laws and regulations. If an eligible agency has failed to comply with laws and regulations with respect to a project, payment of funds may be withheld on such projects, or approval of additional projects may be withheld until compliance or remedial action has been accomplished by the eligible agency to the satisfaction of the board.

((~~(6) Progress payments. Progress payments for project costs shall be limited to the board's percentage share of the costs for project development incurred to the date of the payment request. *Provided*, That in all projects where the total project cost exceeds the amount of authorized board funds, there shall be imposed a limitation on progress payments in order that the percentage of board fund progress payments in relation to total progress costs as of each payment request date shall not exceed the percentage determined by dividing the total authorized amount of board funds by the most recently determined total project cost.~~)

AMENDATORY SECTION (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

WAC 479-20-025 Record requirements. All eligible agencies requesting payment of board funds on authorized projects shall have procedures in effect that will provide ade-

PROPOSED

quate assurance that payments requested are proper and accurate:

(1) Quantities of complete construction contract work shall be supported by all related source documents upon which payment to the contractor is based. These source documents shall include, but shall not be limited to, tickets for items measured on a weight or volume basis, cross section notes, inspector's diaries, engineering calculations for items measured in place, material tests, shipping invoices for steel, and all other field records normally developed by field engineers to support final quantities paid to contractors. The quantity field record should be summarized so that final pay estimates would lend themselves to comparison with supporting records.

(2) All appraisal reports, record of negotiations with grantors including a negotiator's diary indicating dates of contracts, offers made, and final acceptance by grantor, title insurance documents, transfer documents such as warranty deeds, quit claim deeds, easements, contract and sale documents, shall be maintained.

(3) Daily labor time records, equipment use records, requisitions for materials used, invoices for goods and services, and other invoices shall be maintained. Records shall also be maintained which support employee benefit percentages which are used in calculating amounts charged to construction projects.

(4) All records shall be retained ~~((in compliance with the requirements of the division of audit and))~~ until notification from the board that a project audit is complete or is not required.

AMENDATORY SECTION (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

WAC 479-20-037 Procedure to request increase in board funds. The amount of funds approved will be based upon the amount requested in the design prospectus. This amount may be adjusted from the amount shown in the project application with adequate justification. ~~((The authorized funds and scope of work approved by the board at the design phase will be the base for comparison in the following phases.))~~ Board fund increases are not approved at predesign phase.

Local agencies may request an increase in the participation of funds over the amount set forth in the design phase, at the construction phase, bid opening or contract completion of a project in accordance with the following procedures:

(1) At the construction phase all requests shall be reviewed by the director. The director shall report the findings to the board for its review, consideration and final action. The board shall not grant a request for increase at this phase if:

(a) The requested increase is to pay for an expansion of the scope of the work that is beyond the work required to accomplish the intent of the project as approved at the design phase.

(b) The granting of the request will obligate funding beyond the level acceptable to the board or will in any way adversely affect authorized funds previously approved by the board including the reserve for the following:

(i) Increases at bid opening that will not exceed ten percent of the engineers estimate multiplied by the account matching ratio.

(ii) Increases for construction overruns at the amount equal to the account matching ratio multiplied by the sum of ten percent of the original contract amount up to one million dollars and five percent of the amount in excess of one million dollars for those projects which have been approved for the construction phase.

(2) Request for increases at bid opening shall not exceed ten percent of the engineers estimate submitted to the board at the time the construction phase was approved multiplied by the account matching ratio. Requests for increases at this phase will take priority over design and construction phase approvals. Such requests shall be reviewed by the director and will not be approved if:

(a) The requested increase is to pay for an expansion of the authorized scope of the work; or

(b) If the request is not substantiated and the director determines that the increased funds should have been anticipated by the local agency at the construction phase of the project.

(3) Requests for increases in funds submitted to the board at contract completion shall not exceed the account matching ratio multiplied by the sum of ten percent of the original contract amount up to one million dollars and five percent of the amount in excess of one million dollars. Requests for increases at this phase will take priority over design and construction phase approvals. Such requests shall be reviewed by the director and will not be approved if:

(a) The requested increase is to pay for an expansion of the authorized scope of the work; or

(b) If the request is not substantiated and the director determines that the increased funds should have been anticipated by the local agency at the construction approval phase of the project.

(4) If the director or the board, as the case may be, does not approve the request of a local agency for an increase, the administering agency may:

(a) Proceed with the project, paying for any additional costs with local or other funds; or

(b) Withdraw the request for participation; or, if applicable

(c) Within the authorized amount, and subject to approval by the director, reduce the scope of the project while retaining a usable and functional improvement.

WSR 99-03-098

PROPOSED RULES

**DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT**

[Filed January 20, 1999, 10:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-12-098.

Title of Rule: Historic property designations.

PROPOSED

Purpose: To clarify and update the procedures for listing a property on the Washington Heritage Register, or the National Register of Historic Places. This update will address changes in Washington state law as well as administrative changes concerning the Office of Archaeology and Historic Preservation.

Statutory Authority for Adoption: RCW 27.34.220(8) and chapter 43.330 RCW.

Statute Being Implemented: RCW 27.34.010.

Summary: This update will clarify the procedures for the nomination of a property to the Washington Heritage Register and to the National Register of Historic Places. It also profiles the procedures for reviewing nominations to both registers and lists the characteristics that make a property eligible for the Washington Heritage Register. Procedures for objecting to the nomination of a property are outlined as well.

Reasons Supporting Proposal: Since the last update of this WAC there have been changes in Washington state law as well as the offices which administer the laws.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Hansen, Office of Archaeology and Historic Preservation, 407-0752.

Name of Proponent: David Hansen, Managing Director of the Office of Archaeology and Historic Preservation, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule explains in a step-by-step manner the procedures that must be followed in order to list Washington state property in either the National Register of Historic Places or the Washington Heritage Register. This amendment of the rule will update and clarify the procedures that must be followed in order to list a property according to changes in the state laws. It will inform citizens and professionals nominating properties to the registers exactly what criteria are being used and the administrative procedures being followed in order to determine eligibility. The effect will be to enable applicants to quickly understand the criteria that their nominations are being judged by, and the processes for review. Those who have had their properties nominated but wish to object to the nomination will also be able to learn how to protest a nomination.

Proposal Changes the Following Existing Rules: This proposal updates the former rules in order to reflect changes in state laws for listing properties on historic registers. It will also update references to implementation statutes and departmental contacts.

No small business economic impact statement has been prepared under chapter 19.85 RCW. CTED has determined that no costs or only minor costs will be imposed on small businesses through the implementation of these rules; therefore, a small business economic impact statement is not required.

RCW 34.05.328 does not apply to this rule adoption. CTED is not listed in section 201 as a significant legislative rule agency.

Hearing Location: Office of Archaeology and Historic Preservation, 420 Golf Club Road, Lacey, WA 98504-8343, on February 23, 1999, at 9:00.

Assistance for Persons with Disabilities: Contact David Hansen by February 12, 1999, TDD (360) 753-2200 (agency information number), or (360) 407-0752.

Submit Written Comments to: David Hansen, Office of Archaeology and Historic Preservation, 420 Golf Club Road, Lacey, WA 98504-8343, fax (360) 407-6217, by February 19, 1999.

Date of Intended Adoption: March 31, 1999.

January 20, 1999

Jean Ameluxen

Director of Government Relations

NEW SECTION

WAC 25-12-110 Definitions of terms used in this chapter. (1) Office of archaeology and historic preservation. The office of archaeology and historic preservation (OAHP) is established pursuant to RCW 27.34.210. OAHP provides staff for the state historic preservation officer. OAHP is located at 420 Golf Club Road S.E., Suite 201, Lacey, Washington 98504.

(2) Professionals. In reference to historic buildings, structures, objects, and districts, professionals are individuals who meet minimum requirements under the federal definitions for historian, architectural historian, or historical architect. They are required to have a graduate degree in historic preservation, architectural history, or a related field; or an undergraduate degree plus two years of professional experience working for an historic preservation organization, and/or a record of scholarly work. Professionals must also have previously prepared successful nominations to the National Register of Historic Places.

For the nomination of archaeological resources, professionals are individuals who meet the definition of "professional archaeologist" in WAC 25-48-020(4).

(3) State historic preservation officer. The state historic preservation officer (SHPO) is the person appointed pursuant to RCW 27.34.210 to implement the purposes of that chapter.

(4) State historic preservation officer review board. The state historic preservation officer review board is made up of OAHP staff members and advises the SHPO on the eligibility of properties to the Washington Heritage Register. The SHPO review board is advisory to the SHPO. At a minimum, the SHPO review board shall be composed of SHPO staff representing the areas of history, architectural history, and one other related field. To consider nominations of archaeological properties, traditional cultural properties, or properties with archaeological components, the review board shall also include the state archaeologist.

(5) Washington state advisory council on historic preservation. The Washington state advisory council on historic preservation is the council established pursuant to RCW 27.34.250. It advises the SHPO on the eligibility of properties to the National Register of Historic Places, and is referred to in this chapter as the "council." The administrative location of the council and its staff is at the Office of Archaeology and Historic Preservation, 420 Golf Club Road S.E., Suite

PROPOSED

201, Lacey, Washington 98504. The council meets three times a year in September, January and June, on dates agreed upon by a majority of council members. The SHPO will create the council's agenda in consultation with the council chairperson. The council may hold such special meetings as the SHPO and the chairperson consider necessary.

NEW SECTION

WAC 25-12-120 How do I submit a nomination to the National Register of Historic Places? (1) To nominate a property to the National Register of Historic Places, contact the OAHP to request an information packet. The packet includes a nomination form, guidelines, an outline of the process, and criteria for listing.

(2) When you prepare your nomination, you need to provide the OAHP with information sufficient for the SHPO to make a preliminary eligibility determination. Within forty-five days of receipt of your information, OAHP will respond to you with a written determination of the property's eligibility for the register, as well as suggestions for completion or revision of the nomination.

(3) The SHPO may return any nomination to the applicant for correction or for additional information required for completion and accuracy.

(4) The SHPO may not schedule a nomination for council review if it is inadequately prepared, fails to meet established deadlines or submittal requirements, or is inconsistent with the guidelines or process outline in subsection (1) of this section.

NEW SECTION

WAC 25-12-130 What is the procedure for reviewing nominations to the National Register? (1) The SHPO notifies the nominator, the property owner, and the applicable chief elected official of the county and municipal political jurisdiction of the date, time, and location of the council review of the nomination not more than seventy-five days or less than thirty days prior to the scheduled meeting. If a nomination is of an historic district where more than fifty property owners are involved, notification occurs through notice in a local newspaper of general circulation.

(2) Following council review, the council forwards the nominations and its recommendation to the SHPO. All council determinations regarding nominations are advisory only; the decision to submit a nomination to the National Register is within the discretion of the SHPO.

(3) The SHPO considers all nominations reviewed by the council prior to the next regularly scheduled council meeting, and reports decisions regarding those nominations to the council at that meeting. If a nomination meets National Register criteria, standards and procedures, the SHPO submits the nomination to the National Register. The SHPO notifies the council at the next regularly scheduled council meeting of any nominations deemed ineligible or otherwise insufficient.

NEW SECTION

WAC 25-12-140 How do I submit a nomination to the Washington Heritage Register? (1) To nominate a property to the Washington Heritage Register, contact the OAHP to request an information packet. The information packet includes a nomination form, guidelines, an outline of the processes, and criteria for listing.

(2) When you prepare your nomination, you need to provide the OAHP with information sufficient for the OAHP to make a preliminary eligibility determination. Within forty-five days of receipt of your information, OAHP will respond with a written opinion of the property's eligibility for the register, as well as suggestions for completion or revision of the nomination.

NEW SECTION

WAC 25-12-150 What is the procedure for reviewing nominations to the Washington Heritage Register? (1) If OAHP staff determine that the property may meet the criteria for listing in the Washington Heritage Register and considers the application form complete, the nomination will be scheduled for consideration by the SHPO review board.

(2) The SHPO notifies the nominator, the property owner, and the applicable chief elected official of the county and municipal political jurisdiction of the date, time, and location of the review. The notification occurs not more than forty-five days or less than thirty days prior to the scheduled meeting. The SHPO review board meets quarterly or as needed to respond to applications to the Washington Heritage Register, but does not meet more frequently than once a month.

(3) The decisions of the SHPO regarding designations to the Washington Heritage Register are final. Proponents who can produce additional documentation regarding the eligibility of a property may appeal to the SHPO for reconsideration. Upon receipt of additional documents related to the significance of the property and a letter of appeal, the SHPO can schedule the nomination for reconsideration at the next SHPO review board meeting. It is within the discretion of the SHPO to request a complete revision of the nomination prior to bringing it before the SHPO review board.

(4) Nominations for properties located within federally certified local governments (CLGs) require verification of prior local review by the designated CLG program coordinator or chair of the appointed historical commission.

NEW SECTION

WAC 25-12-160 Characteristics of properties eligible for listing on the Washington Heritage Register. (1) Eligible properties have at least one of the following areas of significance:

(a) The property is an important or a rare surviving example of an early settlement or an original native occupation of a community or region;

(b) The property is directly connected to a social or religious movement, organization, or institution that served as a focal point for a community or group of people;

(c) The property is directly connected to specific activities or events that had a lasting impact on a community or region;

(d) The property is associated with legends, spiritual or religious practices, or life ways that are uniquely related to a piece of land or to a natural feature;

(e) The property displays strong patterns of land use or alterations of the environment, which are associated with important historic functions, activities, ideals, or cultural principles;

(f) The property is directly associated with an individual who made an important contribution to a community or to a group of people;

(g) The property has strong artistic, architectural, or engineering qualities, or displays unusual materials or craft work belonging to an historic era;

(h) The property was designed or built by an influential architect, or reflects the work of an important elder or artisan;

(i) Archaeological investigation of the property has or will increase our understanding of past culture or life ways.

(2) Eligible properties must also:

(a) Be representative of important historical associations, cultural values, or artistic and architectural values that are essential to an understanding of the state's heritage. Examples of these types of properties include buildings, structures, objects, cemeteries and burial sites, historic sites, traditional cultural properties, and cultural landscapes.

(b) Possess essential integrity. Essential integrity means the ability of a property to convey its original function, period of significance, and historic context through its physical characteristics of setting, location, related environment, landscape, design, style, materials, and craft work.

(c) Generally be at least fifty years old. Properties less than fifty years old must be shown to have transcendent importance to the state's heritage which can be verified through scholarly investigation and in recognized professional publications or other sources.

(3) Any properties that have been determined under federal regulations to be ineligible for listing in the National Register may be found eligible for the Washington Heritage Register under the criteria contained in this subsection.

NEW SECTION

WAC 25-12-170 Does acceptance to one register guarantee acceptance to both? No. Properties eligible for listing in the National Register are also eligible for the Washington Heritage Register. However, properties listed in the Washington Heritage Register may or may not meet the criteria for listing in the National Register. If you think your Washington Heritage Register-listed property may meet the criteria for listing in the National Register, follow the steps in WAC 25-12-120.

NEW SECTION

WAC 25-12-180 How do I object to listing my property in either the National Register of Historic Places or the Washington Heritage Register? The legal owner of property may object to the listing of that property in either the

National Register of Historic Places or the Washington Heritage Register.

(1) The SHPO will notify property owners at least thirty days in advance of their property's nomination review by either the council (for nominations to the National Register) or the SHPO review board (for nominations to the Washington Heritage Register).

(2) At the time of notification, the SHPO will provide the property owner with information about the implications of listing and the procedures for objecting to the proposed listing.

(3) To object, the property owner must submit a notarized letter stating his or her objections during the thirty-day period before the council or the SHPO review board meets to consider the nomination.

(4) In the case of multiple property owners, a simple majority of owners must submit individual notarized letters of objection.

(5) In response to an objection, a property will not be formally listed, but the property may be evaluated for eligibility against the criteria of the Washington Heritage Register or the National Register. The Keeper of the National Register of Historic Places makes a final determination of National Register eligibility; the SHPO makes the final determination of eligibility for the Washington Heritage Register.

(6) Objecting owner(s) will be notified in writing if their property meets register criteria; however, the property will not receive a designation or be recognized in any list of designated properties.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 25-12-010	Purpose.
WAC 25-12-020	Definitions.
WAC 25-12-030	Description of purpose and staff.
WAC 25-12-040	Procedures—Nominations proposed by nonprofessional public.
WAC 25-12-050	Procedures—Nominations proposed by the professional public.
WAC 25-12-060	Procedures.
WAC 25-12-070	Public records available.

PROPOSED



WSR 99-03-109
EXPEDITED ADOPTION
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed January 20, 1999, 11:44 a.m.]

Title of Rule: WAC 296-400A-045 What fees will I have to pay?

Purpose: To reduce fees that were raised in excess of amount allowed by [Initiative] 601.

Statutory Authority for Adoption: RCW 34.05.356 (1)(f).

Statute Being Implemented: RCW 18.106.125.

Summary: Current rule includes four plumber fees which were inadvertently increased beyond the 4.05% allowed.

Reasons Supporting Proposal: To comply with [Initiative] 601 requirements, the department is proposing to reduce the fees to the allowable amount.

Name of Agency Personnel Responsible for Drafting: Kevin Morris, Tumwater, 902-5578; Implementation and Enforcement: Patrick Woods, Tumwater, 902-6348.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendment reduces fees in WAC 296-400A-045 to correct changes which resulted in fee

increases in excess of the 4.05% allowed by [Initiative] 601 limits.

Proposal Changes the Following Existing Rules: The proposed amendment lowers four plumber fees to the 4.05% allowed.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Selwyn Walters, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504, fax (360) 902-4202, AND RECEIVED BY March 20, 1999.

January 19, 1999
 Gary Moore
 Director

AMENDATORY SECTION (Amending WSR 98-13-126, filed 6/17/98, effective 7/20/98)

WAC 296-400A-045 What fees will I have to pay?
 The following are the department's plumbers fees:

<u>Type of Fee</u>	<u>Period Covered by Fee</u>	<u>Dollar Amount of Fee</u>
Examination application	Per examination	\$ 108.25
Reciprocity application	Per application	\$ 108.25
Trainee certificate*	One year	\$ 32.50
Trainee certificate	Less than one year	\$3.00 per month with a minimum fee of \$21.50
Temporary permit	90 days	\$ ((54.25)) <u>54.00</u>
Journeyman or specialty certificate**	Two years	\$ ((87.00)) <u>86.75</u>
Journeyman or specialty certificate	Less than two years	\$3.50 per month with a minimum fee of \$ ((32.75)) <u>32.50</u>
Medical gas endorsement examination application***	Per application	\$40.00
Medical gas endorsement**	One year	\$30.00
Medical gas endorsement	Less than one year	\$2.50 per month with a minimum fee of \$17.50
Medical gas endorsement examination fee***		See note below.
Medical gas endorsement training course fee****		See note below.
Reinstatement of a journeyman certificate		\$ ((174.00)) <u>173.50</u>
Replacement of all certificates		\$ 32.50

* The trainee certificate shall expire one year from the date of issuance and be renewed on or before the date of expiration.

** This fee applies to either the original issuance or a renewal of a certificate. If you have passed the plumbers certificate of competency examination or the medical gas piping installer endorse-

ment examination and paid the certificate fee, you will be issued a plumber certificate of competency or a medical gas endorsement that will expire on your birthdate.

EXPEDITED ADOPTION

The annual renewal of a Medical Gas Piping Installer Endorsement shall include a continuity affidavit verifying that brazing work has been performed within the past year.

*** This fee is paid directly to a nationally recognized testing agency under contract with the department. It covers the cost of preparing and administering the written competency examination and the materials necessary to conduct the practical competency examination required for the medical gas piping system installers endorsement. **This fee is not paid to the department.**

**** This fee is paid directly to a training course provider approved by the department, in consultation with the state advisory board of plumbers. It covers the cost of providing training courses required for the medical gas piping system installer endorsement. **This fee is not paid to the department.**

If your birth year is:

- (1) In an even-numbered year, your certificate will expire on your birthdate in the next even-numbered year.
- (2) In an odd-numbered year, your certificate will expire on your birthdate in the next odd-numbered year.

EXPEDITED ADOPTION

WSR 99-03-002
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed January 7, 1999, 9:58 a.m.]

Date of Adoption: January 4, 1999.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: 5; repealing 2 [WAC 308-93-410 and 308-93-620]; and amending 3 [WAC 308-93-250, 308-93-270, and 308-93-280].

Statutory Authority for Adoption: RCW 88.02.070.

Other Authority: RCW 88.02.100.

Adopted under notice filed as WSR 98-22-094 on November 4, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 2; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 5, 1999

Fred Stephens

Director

AMENDATORY SECTION (Amending Order 736-DOL, filed 11/18/83)

WAC 308-93-250 (~~Legal owner~~) **Secured party not liable for acts of ((registered)) vessel owner.** (~~The person, firm, copartnership, association or corporation to whom a certificate of title shall have been issued shall not thereby incur liability or be responsible for damage, or otherwise, resulting from any act or contract made by the registered owner or by any other person acting for or by or under the authority of such registered owner.~~) **Is the secured party liable for the acts of the vessel owner?**

No. The secured party is not liable or responsible for any act or contract made by the vessel owner or by any person representing the vessel owner.

AMENDATORY SECTION (Amending Order TL-RG-2, filed 6/21/84)

WAC 308-93-270 Appeals to superior court from suspension, (~~revocation~~) cancellation, or refusal of registration or certificate of (~~title~~) **ownership. May I appeal the department's decision to refuse to issue a registration**

or certificate of ownership or suspend or cancel a registration or certificate of ownership?

Yes. The suspension, (~~revocation~~) cancellation, or refusal by the (~~director~~) **department** of any registration or certificate of title provided for in chapter 88.02 RCW and chapter 250, Laws of 1984, or chapter 308-93 WAC shall be conclusive unless the person whose registration or certificate is suspended, (~~revoked~~) canceled, or refused appeals to the superior court of Thurston County, or to the superior court of the county of the person's residence, for the purpose of having the suspension, (~~revocation~~) cancellation, or refusal of such registration or certificate set aside. Notice of appeal must be filed within ten days after receipt of the notice of suspension, (~~revocation~~) cancellation, or refusal. Upon the filing of the notice of appeal the court shall issue an order to the (~~director~~) **department** to show cause why the registration should not be granted or reinstated, which order shall be returnable not less than ten days after the date of service thereof upon the (~~director~~) **department**. Service shall be in the manner prescribed for service of summons and complaint in other civil actions.

Upon the hearing on the order to show cause, the court shall hear evidence concerning matters with reference to the suspension, (~~revocation~~) cancellation, or refusal of the registration or certificate and shall enter judgment either affirming or setting aside such suspension, (~~revocation~~) cancellation, or refusal.

AMENDATORY SECTION (Amending Order 736-DOL, filed 11/18/83)

WAC 308-93-280 (~~Procedure when~~) **Hull identification numbers ((altered or obliterated)).** (~~Before the department shall issue a certificate of title, or reissue such a certificate covering any vessel, the identification number of which has been altered, removed, obliterated, defaced, omitted, or is otherwise absent, the registered owner of the vessel shall file an application with the department, upon a form provided, and containing such facts and information as shall be required by the department for the assignment of a special number for such vessel. Upon receipt of such application, the department, if satisfied the applicant is entitled to the assignment of an identification number, shall designate a special identification number for such vessel, which shall be noted upon the application therefor, and likewise upon a suitable record of the authorization of the use thereof, to be kept by the department. This assigned identification number shall be placed upon the vessel in the manner prescribed by the department. Upon receipt by the department of an application for a certificate of title or application for reissue of such certificate and the required fee therefor, the department shall use such number as the numerical or alpha-numerical identification marks for the vessel in any certificate of registration or certificate of title that may thereafter be issued therefor.~~) **(1) Is a hull identification number required to use a vessel on the waters of Washington state?**

Yes. **A hull identification number is required on any vessel that is used on the waters of this state unless application for hull identification number has been made and issuance of hull identification number is pending.**

PERMANENT

(2) When would a hull identification number (HIN) need to be assigned by the department?

The HIN needs to be assigned at the time of application through the vehicle field system whenever the HIN has been altered, removed, obliterated, defaced, omitted, or is otherwise absent.

(3) How is the department assigned HIN affixed to the vessel?

(a) The number shall be clearly imprinted or otherwise permanently affixed above the waterline in such a way that alteration, removal, or replacement would be obvious or evident; and

(b) The number shall be at least one quarter of an inch in height and shall be placed on:

- (i) The outboard starboard side of the transom; or
- (ii) The outermost starboard side at the end of the hull that bears the rudder or other steering mechanism, if there is no transom.

(4) Can the previous HIN be reaffixed?

At the department's discretion, it may authorize the vessel owner to reaffix the HIN.

(5) If a HIN is missing on a vessel that is abandoned on or along a public highway, may the vessel be processed through the abandoned vehicle process?

Yes. The department will assign a HIN at the time the purchaser applies for certificate of ownership.

(6) Is it unlawful to destroy, remove, alter, cover or deface the HIN?

Yes. It is unlawful for a person, firm, association or corporation to destroy, remove, alter, cover or deface a HIN.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 308-93-410 Cancel/refusal to issue certificate.
- WAC 308-93-620 Hull identification number required.

WSR 99-03-004
PERMANENT RULES
OFFICE OF THE
STATE TREASURER
[Filed January 7, 1999, 1:48 p.m.]

Date of Adoption: January 7, 1999.

Purpose: The purpose of the rule is to preserve the state's name in the securities markets and to maintain the integrity of the state's debt management program by setting forth the process by which private placements of securities that use or reference a lease for or on behalf of a state agency may receive the State Treasurer's approval of such use or reference.

Statutory Authority for Adoption: Chapter 117, Laws of 1997.

Adopted under notice filed as WSR 98-14-139 on July 1, 1998.

Changes Other than Editing from Proposed to Adopted Version: One explanatory sentence added to WAC 474-10-060 (second sentence).

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 10, 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 10, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.
January 7, 1999
Michael J. Murphy
State Treasurer

Chapter 474-10 WAC

REGULATIONS GOVERNING THE STATE TREASURER'S APPROVAL OF THE USE OR REFERENCE TO A LEASE FOR OR ON BEHALF OF A STATE AGENCY AS COLLATERAL OR SECURITY FOR THE PAYMENT OF SECURITIES PURSUANT TO THE PROVISIONS OF CHAPTER 117, LAWS OF 1997, SECTION 1(4)

NEW SECTION

WAC 474-10-010 Purpose. The purpose of this chapter shall be to implement Chapter 117, Laws of 1997, Section 1(4) and to establish the criteria pursuant to which the state treasurer may grant approval of an offering for sale through private placement securities which use or refer to a lease for or on behalf of a state agency as collateral or security for payment.

NEW SECTION

WAC 474-10-020 Definitions. As used in Chapter 474-10 WAC, the following terms shall have the meanings indicated:

(1) "Accredited investor" shall mean any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:

(a) Any bank as defined in section 3 (a)(2) of the Securities Act of 1933, or any savings and loan association or other institution as defined in section 3 (a)(5)(A) of the Securities

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Act of 1933 whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934; any insurance company as defined in section 2(13) of the Securities Act of 1933; any investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2 (a)(48) of that act; any small business investment company licensed by the U.S. Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of \$5,000,000; any employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such act, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of \$5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;

(b) Any private business development company as defined in section 202 (a)(22) of the Investment Advisers Act of 1940;

(c) Any organization described in section 501 (c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000;

(d) Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer or general partner of a general partner of that issuer;

(e) Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds \$1,000,000;

(f) Any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;

(g) Any trust, with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in 17 CFR Sec. 230.506 (b)(2)(ii); and

(h) Any entity in which all of the equity owners are accredited investors.

(2) "Affiliate," an "affiliate" of, or person "affiliated" with, a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified;

(3) "CUSIP identifier" means a six digit number assigned to a particular issuer by the administering agent for the American Bankers Association's Committee on Uniform Security Identification Procedures.

(4) "Full business day" means all calendar days, excluding therefrom Saturdays, Sundays, and all legal holidays, as defined by statute.

(5) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(6) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(7) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(8) "PPN identifier" means a six digit number assigned to a particular issuer by the administering agent for the American Bankers Association's Committee on Uniform Security Identification Procedures.

(9) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(10) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificates of interest or participation in any profit-sharing agreement; collateral-trust certificates; preorganization certificate of subscription; transferable share; investment contract; investment of money or other consideration in the risk capital of a venture with the expectation of some valuable benefit to the investor where the investor does not receive the right to exercise practical and actual control over the managerial decisions of the venture; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; charitable gift annuity; any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing; or any sale of or indenture, bond or contract for the conveyance of land or any interest therein where such land is situated outside of the state of Washington and such sale or

its offering is not conducted by a real estate broker licensed by the state of Washington. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or some other specified period.

(11) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" means the federal statutes of those names as amended.

(12) "Treasurer" means the treasurer of the state of Washington.

NEW SECTION

WAC 474-10-030 Public offerings. Unless an offer or sale of a security that uses or refers to a lease for or on behalf of a state agency as collateral or security for payment is a private placement pursuant to the provisions of WAC 474-10-040, such offer or sale is a public offering for purposes of Chapter 117, Laws of 1997, Section 1(4). Notwithstanding the foregoing, a lessor may assign or encumber its interest in a lease as security for the repayment of a promissory note provided that the transaction would otherwise be an exempt transaction under RCW 21.20.320.

NEW SECTION

WAC 474-10-040 Private placements. The following transactions are private placements for the purposes of Chapter 117, Laws of 1997, Section 1(4):

- (1) Any offer or sale to an accredited investor.
- (2) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters.
- (3) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator.
- (4) Any transaction executed by a bona fide pledgee without any purpose of evading this chapter.

In any sales pursuant to exemption (1) by an issuer, an affiliate of the issuer, or an underwriter, the person selling the securities shall exercise reasonable care to assure that the securities are being sold only to accredited investors and to assure that any resale(s) of the securities complies with the provisions of Chapter 117, Laws of 1997, Section 1(4) and the provisions of Chapter 474-10 WAC. Reasonable care may be demonstrated by the following:

- (a) Reasonable inquiry to determine that the purchaser is an accredited investor;
- (b) Reasonable inquiry to determine if the purchaser is acquiring the securities for himself or herself or for other persons;
- (c) Written disclosure to each purchaser prior to sale that the securities may only be resold in private placements pursuant to the provisions of Chapter 117, Laws of 1997, Section 1(4) and the provisions of Chapter 474-10 WAC; and
- (d) Placement of a legend on the certificate or other document that evidences the securities stating that the securities are subject to Chapter 117, Laws of 1997, Section 1(4) and

the provisions of Chapter 474-10 WAC, and setting forth or referring to the restrictions on transferability and sale of the securities.

In any proceeding involving the rules in Chapter 474-10-040 WAC, the burden of proving compliance with or an exception from a rule, definition or condition is upon the person claiming it.

NEW SECTION

WAC 474-10-050 Required disclosures. In any offering or sale of a security which uses or refers to a lease for or on behalf of any state agency as collateral or security for payment, the issuer or seller shall provide the following written disclosures to any prospective purchaser:

(1) Any prospectus, offering circular or other written information provided to any prospective purchaser shall include the following disclosure on the cover page thereof:

"THE SECURITIES DESCRIBED HEREIN DO NOT REPRESENT AN OBLIGATION OF THE STATE OF WASHINGTON OR ANY DEPARTMENT, AGENCY OR INSTRUMENTALITY THEREOF. THE CREDIT OF THE STATE OF WASHINGTON IS NOT PLEDGED TO THE REPAYMENT OF THESE SECURITIES. THE STATE OF WASHINGTON SHALL NOT BE OBLIGATED TO PAY THESE SECURITIES OR ANY INTEREST OR DIVIDENDS THEREON UNDER ANY CIRCUMSTANCES."

(2) Any prospectus, offering circular or other written information provided to any prospective purchaser shall include the following disclosure:

"APPROVAL OF THE STATE TREASURER OF THE USE OR REFERENCE TO A LEASE FOR OR ON BEHALF OF A STATE AGENCY AS COLLATERAL OR SECURITY FOR THE PAYMENT OF SECURITIES PURSUANT TO CHAPTER 117, LAWS OF 1997, SECTION 1(4) AND CHAPTER 474-10 WAC DOES NOT SIGNIFY THAT THE STATE TREASURER HAS APPROVED, ENDORSED, OR RECOMMENDED THESE SECURITIES."

NEW SECTION

WAC 474-10-060 Attorney general opinions. In any offering or sale of a security which uses or refers to a lease for or on behalf of any state agency as collateral or security for payment, no State of Washington Attorney General opinions or memoranda, or excerpts thereof, may be used or cited in any prospectus, offering circular or other written information provided to any prospective purchaser without the prior written approval of the treasurer. Such approval shall not be withheld if in the judgment of the treasurer such use of an opinion, memorandum or excerpt thereof would not be misleading by implying, directly or indirectly, that the State of Washington or any agency thereof is an obligor with regard to payment of the security. Notwithstanding the foregoing, nothing in this rule shall prevent the Office of the Attorney General from exercising any legal rights that it may have with respect to the use or publication by others of Attorney General opinions or memoranda.

NEW SECTION

WAC 474-10-070 State agency representations. In any offering or sale of a security which uses or refers to a lease for or on behalf of any state agency as collateral or security for payment, no representation by a state agency regarding use of a facility, or excerpts thereof, may be used or cited in any prospectus, offering circular or other written information provided to any prospective purchaser without the prior written approval of the treasurer.

NEW SECTION

WAC 474-10-080 Use of state of Washington CUSIP and PPN identifiers. In any offering or sale of a security which uses or refers to a lease for or on behalf of any state agency as collateral or security for payment, use of any State of Washington CUSIP identifier or PPN identifier is expressly prohibited.

NEW SECTION

WAC 474-10-090 Procedure for review. In any initial offering or sale of a security which uses or refers to a lease for or on behalf of any state agency as collateral or security for payment for which the treasurer's written approval has not been secured the issuer shall request approval as follows. The issuer shall submit to the Office of the State Treasurer two copies of the prospectus, offering circular or other written information in connection with the offering and two copies of the form of security. The Office of the State Treasurer shall have 15 full business days to make a determination regarding an approval or disapproval of the offering pursuant to the criteria in Chapter 117, Laws of 1997, Section 1(4) and this Chapter 474-10 WAC. Any such determination shall be made in writing. Any determination of approval shall be contingent upon any such offering or sale being completed in accordance with the provisions of this Chapter 474-10 WAC. The treasurer may, in his or her discretion, require the issuer to provide evidence that any such offering or sale is a private placement pursuant to the provisions of this Chapter 474-10 WAC.

NEW SECTION

WAC 474-10-100 Approval pursuant to statute. Any approval by the treasurer pursuant to the provisions of Chapter 117, Laws of 1997, Section 1(4) and this Chapter 474-10 WAC of the use or reference to a lease for or on behalf of a state agency as collateral or security for the payment of securities does not constitute an approval or recommendation of the securities by the treasurer.

WSR 99-03-005
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed January 7, 1999, 2:06 p.m.]

Date of Adoption: January 7, 1999.

Purpose: To explain how Washington's B&O, retail sales, and use taxes apply to educational institutions, school districts, student organizations, private schools, nursery schools, preschools, child care operations, and persons who monitor home child care facilities.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-167 Educational institutions, schools districts, student organizations, and private schools.

Statutory Authority for Adoption: RCW 82.32.300.

Adopted under notice filed as WSR 98-22-047 on October 30, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 7, 1999

Russell W. Brubaker

Assistant Director

AMENDATORY SECTION (Amending WSR 94-07-047, filed 3/10/94, effective 4/10/94)

WAC 458-20-167 Educational institutions, school districts, student organizations, and private schools. (1) **Introduction.** This section explains the application of Washington's business and occupation (B&O), retail sales, and use taxes to educational institutions, school districts, student organizations, and private schools. It also gives tax reporting information to persons operating nursery schools, preschools, ~~((and day))~~ or providing child care. Educational institutions which are institutions of the state of Washington should also refer to WAC 458-20-189 (Sales to and by the state of Washington, etc.). Nonprofit organizations should also refer to WAC 458-20-169 (Religious, charitable, benevolent, nonprofit service organizations, and sheltered workshops).

(2) **Definitions.** For the purposes of this section, the following definitions apply:

(a) The term "tuition fees" includes fees for instruction, library, laboratory, and health services. The term also includes special fees and amounts charged for room and board when the property or service for which such charges are made is furnished exclusively to the students ~~((or faculty))~~, teachers, or other staff of the institution.

(b) "Educational institutions" means the following:

(i) Institutions which are established, operated, and governed by this state or its political subdivisions under Title

PERMANENT

28A (Common school provisions), 28B (Higher education), or 28C (Vocational education) RCW.

(ii) Nonpublic schools, including parochial or independent schools or school districts, carrying out a program for any or all of the grades one through twelve, which have been approved by the Washington state board of education. (See also chapter 180-90 WAC.)

(iii) Degree-granting institutions offering educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree or certificate beyond the secondary level, provided the institution is accredited by an accrediting association recognized by the United States Secretary of Education and offers to students an educational program of a general academic nature. Degree-granting institutions should refer to chapter 28B.85 RCW for information about the requirement for authorization by the Washington higher education coordinating board.

(iv) Institutions which are not operated for profit, and which are privately endowed under a deed of trust to offer instruction in trade, industry, and agriculture.

(v) ~~((On and after July 1, 1993, the term includes educational))~~ Programs that an educational institution cosponsors with a nonprofit organization, as defined by the Internal Revenue Code Sec. 501 (c)(3), provided that educational institution grants college credit for course work successfully completed through the educational program. ~~((See chapter 18, Laws of 1993 sp.s.))~~

(vi) ~~((On and after July 25, 1993, "educational institutions" includes))~~ Certain branch campuses of foreign degree-granting institutions, provided the following requirements, among others, are satisfied:

(A) The branch campus must be owned and operated directly by a foreign degree-granting institution or indirectly through a Washington profit or nonprofit corporation in which the foreign degree-granting institution is the sole or controlling shareholder or member;

(B) Courses must be provided solely and exclusively to students enrolled in a degree-granting program offered by the institution;

(C) The branch campus must be approved by the Washington higher education coordinating board to operate in this state; and

(D) The branch campus must be recognized to be exempt from income taxes pursuant to 26 U.S.C. Sec. 501(c). ~~((See chapter 181, Laws of 1993.))~~

(vii) "Educational institutions" does not include any entity defined as a "private vocational school" under chapter 28C.10 RCW and/or any entity defined as a "degree-granting private vocational school" under chapters 28C.10 and 28B.85 RCW (other than those described in (b)(iv) of this subsection).

(c) "Private schools" means all schools and institutions which are excluded from the above definition of "educational institutions." For example, an elementary school operated by a church organization is a "private school" if the school is not approved. It will be given the tax treatment of an "educational institution" for purposes of this section only if it has obtained approval from the Washington state board of education.

(3) **Business and occupation tax.** Departments and institutions of the state of Washington are not subject to the

B&O tax. (See WAC 458-20-189.) School districts are also not subject to the B&O tax, except as to income derived from a public utility or enterprise activity. RCW 82.04.419. Private schools, student organizations, school districts engaging in utility or enterprise activities, and educational institutions which are not departments or institutions of the state of Washington are subject to the B&O tax as follows:

(a) **Service and other business activities.** The service B&O tax applies to the following nonexclusive list of activities or sources of income:

(i) Tuition fees received by private schools. However, educational institutions, as defined above, may deduct amounts derived from tuition fees. ~~((Refer to))~~ RCW 82.04.4282. ~~((.))~~

(ii) Rental of conference facilities to various organizations or groups.

(iii) Rental by private schools of dormitories or other student lodging facilities which are not generally available to the public and where the student does not have an absolute right of control and occupancy. (See WAC 458-20-118.) However, educational institutions may deduct the income from charges for lodging made to students. These amounts are defined by law as being tuition.

(iv) Amounts received by private schools for providing meals to students where the meals are provided exclusively for students, teachers, staff, and their guests. However, refer to the comments under retailing for the taxability of meals sold to guests of students. Income from providing meals to students by educational institutions is deductible.

(v) Amounts received from owners of coin operated vending machines or amusement devices for allowing the placement of those machines on the premises of the school. (Refer also to WAC 458-20-187.)

(b) **Retailing.** ~~((The retailing B&O tax applies to the following activities or sources of income))~~ Activities and sources of income subject to the retailing BO tax include, but are not limited to, the following:

(i) Sales of tangible personal property or services classified as retail sales. This includes sales of books and supplies to students where these materials are not supplied as part of the tuition charge. Sales of academic transcripts are exempt from tax. RCW 82.04.399.

(ii) ~~((Charges for making copies of public records or documents, such as transcripts.~~

~~((iii)))~~ Sales of meals to guests of students.

~~((iv)))~~ (iii) Sales of meals or prepared foods in facilities which are generally open to the public, including those sold to students. (See also WAC 458-20-119.)

(4) **Retail sales tax.** The retail sales tax applies to all retail sales ~~((of the type identified under retailing))~~ including, but not limited to, those identified in subsection (3) of this section, unless a specific statutory exemption applies.

(a) Educational institutions, school districts, student organizations, and private schools, including departments or institutions of the state of Washington, are required to collect the retail sales tax on sales of tangible personal property and retail services to consumers, ~~((notwithstanding))~~ even though such sales may be exempt from the retailing B&O tax. Retail sales tax exemptions are provided for sales of academic tran-

scripts (RCW 82.08.2537) and certain food products (RCW 82.08.0293 and 82.08.0297, and WAC 458-20-244).

(b) Amounts derived from charges between departments or institutions of the state of Washington, or between departments of the same entity, constitute interdepartmental charges and are not subject to the retailing or retail sales tax. (See WAC 458-20-201 and 458-20-189.) ~~((Sales of certain food products are exempt from the retail sales tax. (See WAC 458-20-244.))~~

(c) Persons selling merchandise through vending machines should refer to WAC 458-20-187.

(5) **Deferred sales or use tax.** Educational institutions, school districts, student organizations, and private schools are required to report the deferred sales or use tax upon the use of all tangible personal property purchased or acquired under conditions whereby the Washington retail sales tax has not been paid, unless a specific statutory exemption applies. If items are purchased for dual purposes (i.e., for both consumption and resale), a tax paid at source deduction may be claimed for the cost of the articles resold upon which retail sales tax was previously paid. (See WAC 458-20-102.)

(a) These organizations are the consumers of food or beverage products which are ingredients of meals that are furnished to students and faculty. However, certain food products are exempt from the retail sales and/or use tax. ~~((Refer to))~~ RCW 82.12.0293 and 82.12.0297, and WAC 458-20-244. ~~((If items are purchased for dual purposes (i.e., for both consumption and resale), these organizations may claim a tax paid at source deduction for the cost of the articles resold upon which retail sales tax was paid. (See WAC 458-20-102.))~~

(b) Use tax exemptions are also provided for the following:

(i) Academic transcripts. RCW 82.12.0347.

(ii) Computers, computer components, computer accessories, or computer software irrevocably donated to any public or private nonprofit school or college in this state, as defined by chapter 82.36 RCW. For the purposes of this exemption, RCW 82.12.0284 defines "computer" as a data processor that can perform substantial computation, including numerous arithmetic or logic operations, without intervention by a human operator. This exemption is available to both the donor and the private nonprofit school or college receiving the donation.

(iii) Tangible personal property donated to a nonprofit charitable organization or state or local governmental entity, RCW 82.12.02595. Prior to June 11, 1998, this exemption is available only to the nonprofit charitable organization or state or local governmental entity receiving the donation. On and after June 11, 1998, the following are also exempt from the use tax:

(A) The subsequent use of the property by a person to whom the property is donated or bailed by the nonprofit charitable organization, or state or local governmental entity, if used to further the purpose of that organization; and

(B) The donation of tangible personal property without intervening use to a nonprofit charitable organization, or the incorporation of tangible personal property without intervening use into real or personal property of or for a nonprofit charitable organization in the course of installing, repairing,

cleaning, altering, imprinting, improving, constructing, or decorating the real or personal property for no charge. Chapter 182, Laws of 1998.

(iv) Motor vehicles equipped with dual controls loaned to and exclusively used by a school in connection with the school's driver training program. This exemption is available to both the donor and the school receiving the donation. For the purposes of this exemption, RCW 82.12.0264 limits the term "school" to:

(A) The University of Washington, Washington State University, the regional universities, The Evergreen State College, and the state community colleges;

(B) Any public, private, or parochial school accredited by either the state board of education or by the University of Washington (the state accrediting station); or

(C) Any public vocational school meeting the standards, courses, and requirements established and prescribed or approved in accordance with the Community College Act of 1967.

(6) Nursery schools, preschools, ~~((day))~~ child care providers, ~~((and))~~ privately operated kindergartens, and persons monitoring home child care facilities. Income received by nursery schools, preschools, ~~((day))~~ child care providers, and privately operated kindergartens for the care or education of children who are under eight years of age and not enrolled in or above the first grade is exempt from the B&O tax. ~~((Refer to))~~ RCW 82.04.4282. ~~((?))~~ Such persons are, however, subject to ~~((the service))~~ B&O tax upon the gross proceeds derived from providing child care to children who are eight years of age or older or enrolled in or above the first grade.

Effective July 1, 1998, persons providing child care for periods of less than twenty-four hours are subject to tax under the child care B&O classification, RCW 82.04.2905. The service and other activities B&O tax classification applied to these services prior to July 1, 1998, and continues to apply to child care services provided for periods in excess of twenty-four hours. Nursery schools, preschools, and ~~((day))~~ child care providers receiving both taxable and exempt income must properly segregate such income in their books of account.

~~((Effective June 11, 1992,))~~ (a) The B&O tax does not apply to income derived by a church for the care of children of any age for periods of less than twenty-four hours, provided the church is exempt from property tax under RCW 84.36.020. ~~((See chapter 81, Laws of 1992.))~~ RCW 82.04.339.

(b) Persons who monitor home child care facilities under one or more federal nutrition programs are required to register with the department and are taxable on their gross income under the service and other classification of the B&O tax. These monitors contract with, and are accountable to the superintendent of public instruction which receives funds from the United States Department of Agriculture and disburses funds to each monitor. Commonly, a portion of the funds received by the monitor is required by law to be passed directly to the home child care facilities for the provision of qualifying meals. That portion of the funds received by the monitor may be taken as a "reimbursement" deduction on the monitor's combined excise tax return, so that the monitor is

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subject to B&O tax only on the portion of funds retained for the rendering of services.

(7) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(a) MN University is an educational institution created by the state of Washington. MN University operates a book store at which it sells text books, school supplies, and apparel to students and nonstudents. As an institution of the state of Washington, MN University is exempt from the B&O tax with respect to all sales, irrespective that sales are made to nonstudents. However, MN is required to collect and remit retail sales tax on its gross proceeds of sales made through its book store.

(b) DMG College is a degree-granting institution accredited by an accrediting association recognized by the United States Secretary of Education. DMG College is an educational institution operated by a church. DMG makes charges to its students for tuition, meals, and lodging. It also receives income for occasionally providing lodging and meals to guests of its students during the year. DMG also rents its conference and dormitory facilities to various groups during the summer, providing cafeteria services when needed. The income from tuition, meals, and lodging received from the students is exempt of B&O and retail sales tax because this entity comes within the definition of an educational institution. DMG must report the retailing B&O tax and collect and remit retail sales tax upon the gross proceeds derived from the sales of meals and prepared foods to the conference attendees and guests. The income derived from the rental of the conference and dormitory facilities to various groups and student guests is subject to the service B&O tax. The college is not considered as holding itself out for the sale of lodging to the general public.

(c) JB College is an educational institution which is not a department or institution of the state of Washington. JB College has converted five housing units from student use for use by nonstudents. Guests of the administration use these units for stays of two or three days, and are charged a specific amount per night. The college provides linen, towels, etc., to the users. These units are always rented for periods under thirty days. JB College must report this rental income under the retailing B&O tax and collect and remit retail sales tax. This income is not derived from the occasional rental of student lodging facilities, but is derived from the rental of accommodations specifically maintained for public use.

(d) Jane Doe operates a private preschool and kindergarten, providing care and elementary education for children. She also provides after hours child care. Jane Doe may claim a deduction for the income received for the care and education of children under eight years old and not enrolled in or above the first grade, provided this income is properly segregated in her books of account. The income attributable to the care of children at or above the first grade level, i.e., eight years old or enrolled in or above the first grade, is subject to the ~~((service)) child care B&O tax. ((However, no service B&O tax will be due if the measure of taxable income is less than the amount for which the B&O tax is required to be paid.~~

(See) Jane Doe may be able to reduce or eliminate any child care B&O tax liability if she qualifies for the small business B&O tax credit. RCW 82.04.4451 and WAC 458-20-104.(?)

WSR 99-03-009
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed January 8, 1999, 8:20 a.m., effective February 28, 1999]

Date of Adoption: January 8, 1999.

Purpose: To repeal chapter 208-464 WAC on credit union member business loans, and chapter 208-480 WAC on real estate appraisals.

Citation of Existing Rules Affected by this Order: Repealing chapters 208-464 and 208-480 WAC.

Statutory Authority for Adoption: RCW 31.12.516, 43.320.040.

Adopted under preproposal statement of inquiry filed as WSR 98-23-061 on November 16, 1998.

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 16.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: February 28, 1999.

January 8, 1999

John L. Bley
Director

WSR 99-03-010
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed January 8, 1999, 8:43 a.m.]

Date of Adoption: January 8, 1999.

Purpose: New WAC 458-57-575 is being adopted to implement chapter 136, Laws of 1997. This legislation amended RCW 83.100.070 Interest on amount due—Penalty for late filing, to authorize the department to waive or cancel the penalty for the late filing of a Washington estate tax return under limited circumstances.

Citation of Existing Rules Affected by this Order: There is no existing rule to explain the circumstances under which a

waiver or cancellation of this penalty will be granted, nor for the procedure to claim a waiver or cancellation.

Statutory Authority for Adoption: RCW 82.32.300 and 83.100.070.

Adopted under notice filed as WSR 98-22-037 on October 29, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 7, 1999

Russell W. Brubaker
Assistant Director

NEW SECTION

WAC 458-57-575 Waiver or cancellation of penalties. (1) **Introduction.** RCW 83.100.070(3), as amended by chapter 136, Laws of 1997, authorizes the Washington state department of revenue (department) to waive or cancel the penalty for late filing of the Washington estate tax return under limited circumstances. This rule explains the circumstances under which a waiver or cancellation of the penalty will be granted, and the procedure for claiming the waiver or cancellation.

(2) **Claiming the waiver.** The department will cancel or waive the late filing penalty imposed on a Washington estate tax return (state return) when the delinquent filing is the result of circumstances beyond the control of the person responsible for filing ((of)) the state return. The person responsible for filing the state return is the same person who is responsible for filing the federal estate tax return (federal return).

A request for a waiver or cancellation of penalties should contain all pertinent facts and be accompanied by such proof as may be available. The person responsible bears the burden of establishing that the circumstances were beyond the responsible person's control and directly caused the late filing. The request must be made in the form of a letter and submitted to the department's special programs division.

(3) **Circumstances eligible for waiver.** In order to qualify for a waiver of penalty the circumstances beyond the control of the person responsible for filing the state return must directly cause the late filing of the state return. These circumstances are generally immediate, unexpected, or in the nature of an emergency. Such circumstances result in the person

responsible not having reasonable time or opportunity to obtain an extension of their due date for the federal return or to otherwise timely file the state return. Circumstances beyond the control of the responsible person include, but are not necessarily limited to, the following:

(a) The delinquency was caused by the death or serious illness of the person responsible for filing the state return or a member of the responsible person's immediate family. In order to qualify for penalty waiver, the death or serious illness must directly prevent the person responsible from having reasonable time or opportunity to arrange for timely filing of the state return. Generally, the death or serious illness must have occurred within sixty days prior to the due date, provided that a valid state return is filed within sixty days of the due date.

(b) The delinquency was caused by an unexpected and unavoidable absence of the person responsible. Generally, this absence must be within sixty days prior to the due date, provided that a valid state return is filed within sixty days of the due date. "Unavoidable absence of the person responsible" does not include absences because of business trips, vacations, personnel turnover, or personnel terminations.

(c) The delinquency was caused by the destruction by fire or other casualty of estate records necessary for completion of the state return.

(d) An estate tax return was timely filed, but was filed incorrectly with another state due to an issue of the decedent's domicile.

(e) A Washington estate tax return was properly prepared and timely filed, but was sent to the location for filing of the federal estate tax return.

WSR 99-03-025

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Order 189—Filed January 11, 1999, 10:23 a.m.]

Date of Adoption: January 8, 1999.

Purpose: To allow contractors who bid on ferry terminals, other marine facilities, and highway construction projects to be prequalified under one rule, chapter 468-16 WAC. Other minor revisions were made to clarify procedures for determining qualifications of contractors for performing marine vessel construction contracts.

Citation of Existing Rules Affected by this Order: Amending chapter 468-310 WAC.

Statutory Authority for Adoption: RCW 47.60.680, 47.60.690.

Adopted under notice filed as WSR 98-23-019 on November 9, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 5, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 8, 1999

Gerald E. Smith

Deputy Secretary, Operations

AMENDATORY SECTION (Amending Order 84, filed 9/12/83)

WAC 468-310-010 General requirements. Contractors desiring to offer bids for the performance of contracts for the construction, improvement or repair of a ferry (~~(- ferry terminal, or other facility))~~ operated by the Washington state ferries or for the repair, overhaul, or the dry-docking of any ferry operated by Washington state ferries must first be prequalified by the Washington state department of transportation (hereinafter "department") and shall file a standard prequalification questionnaire and financial statement (hereinafter "prequalification questionnaire") using forms furnished by the department. Contractors desiring to offer bids for the performance of contracts for the construction, improvement, or repair of ferry terminal facilities shall submit for consideration a prequalification questionnaire (DOT form 420-010) in accordance with chapter 468-16 WAC. The prequalification questionnaire shall include a report of the financial ability of the contractor, its organization, key personnel, equipment and plant facilities, and experience. Complete answers to all questions and the furnishing of all information as indicated by column headings or otherwise throughout the prequalification questionnaire are an essential part of compliance with these rules. A prequalification questionnaire from a contractor not previously prequalified under these rules, who desires to bid on a project must be received no later than 15 calendar days prior to the bid opening (or such other time as the department may specify with respect to any project) in order to receive consideration for that bid opening. The contractor shall authorize the department to obtain all information which it may deem pertinent with respect to the contractor's financial worth, assets and liabilities, and the adequacy of its performance of contracts performed by the contractor in whole or in part within the preceding three years. The department shall issue a certificate of prequalification to any contractor found to possess the qualifications prescribed.

Prequalification may be established in any calendar quarter and is renewable annually. ~~((The))~~ Information submitted in the prequalification questionnaire will be used to establish the ~~((first))~~ initial prequalification, classification and maximum capacity ratings of the contractor for its current fiscal year or remaining portion thereof plus one additional calendar quarter. ~~((Thereafter))~~ Prequalification will be renewed ~~((and when appropriate, modified in the first quarter~~

~~of the contractor's fiscal year for the balance of the fiscal year plus one calendar quarter))~~ annually thereafter or at other times as designated by the department.

The department shall not make available for public inspection and copying financial information supplied by or on behalf of the contractor for the purpose of qualifying to submit a bid or proposal as provided herein. The foregoing restriction shall not, however, prohibit the department from giving such information in evidence or in pretrial discovery in any court action or administrative hearing involving the department and the contractor.

The department may at any time during which the certificate of prequalification is in effect demand a new prequalification questionnaire and if the same is not provided within sixty days of the date of request, the certificate of prequalification held by the contractor will be considered forfeited and the contractor will not be permitted to bid on contracts let by the department for those classes of ferry system construction or repair enumerated in ~~((subsection (8) of section 5))~~ WAC 468-310-050(6) until ~~((such))~~ a new statement has been received by the department.

If at any time during the valid period of the certificate of prequalification the latest prequalification questionnaire on record with the department ceases to represent fairly and substantially the financial position or the equipment and plant facilities of the contractor to whom the certificate was issued, it shall be the responsibility of that contractor to so notify the department and to refrain from further bidding on ferry system construction or repair contracts until ~~((his))~~ their prequalification has been confirmed or revised. Failure to give such notice will constitute a violation of these rules.

Qualified contractors shall be notified of impending expiration of their qualification and will be provided the necessary questionnaire forms for renewal at least forty-five days before the expiration date.

The department reserves the right to require a personal interview with any contractor when considering ~~((his))~~ their qualifications.

AMENDATORY SECTION (Amending Order 114, filed 9/14/88)

WAC 468-310-020 Contents of standard prequalification questionnaire and financial statement. The standard prequalification questionnaire and financial statement shall be ~~((prepared in duplicate. The original shall be))~~ transmitted to the ~~((assistant secretary for marine transportation and a copy shall be retained by the contractor applicant))~~ director of Washington state ferries. The contractor shall provide the following information:

(1) The name, address, phone number, contractor registration number and type of organization (corporation, copartnership, individual, etc.) of the contractor seeking prequalification.

(2) The contract size in dollars and the class or classes of work for which the contractor seeks prequalification (such as vessel dry-docking and hull repairs, vessel electrical repairs, etc.) as enumerated in ~~((subsection (8) of))~~ WAC 468-310-050(6).

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(3) Ownership of the contractor and if a corporation, the name of the parent corporation (if any) and any affiliated companies or subsidiaries.

(4) An accurate and complete record of the ~~((15))~~ fifteen largest contracts in excess of ~~((10,000))~~ ten thousand dollars performed by the contractor in whole or in part within the preceding three years both in Washington and elsewhere, including subcontracts, giving the contract amount, the date completed, the class of work, the name, address and phone number of the owner/agency representative, and any liquidated damages assessed against the contractor by an owner arising out of the performance of the contract.

(5) The principal officers and key employees showing the number of years each engaged in the class or classes of work for which the contractor seeks prequalification. The department may require resumes of ~~((the principal officers and key employees of any contractor seeking prequalification certification for work in excess of \$1,000,000))~~ such personnel as deemed proper for making its determination.

(6) A contractor requesting prequalification certification to perform work in excess of ~~((10,000,000))~~ ten million dollars shall submit copies of its audited annual statements for the previous three years as audited by an independent certified public accountant which shall include comparative balance sheets and income statements, a statement of retained earnings, supporting schedules and notes attached thereto, and the opinion of the independent auditor. The financial statement shall not be more than ~~((12))~~ twelve months old when submitted. Any wholly owned subsidiary corporation may file the latest consolidated financial statement of its parent corporation in lieu of a financial statement prepared solely for such subsidiary providing the financial statement otherwise meets the requirements of the preceding two sentences. If a consolidated financial statement is filed on behalf of a subsidiary corporation, a bid of the subsidiary corporation will be considered only if there is on file with the department a letter from the parent corporation guaranteeing performance by the subsidiary corporation of its contract with the department of transportation in an amount at least equal to the amount of the bid. A letter of guarantee by a parent corporation may cover a specific contract bid by its subsidiary or all contracts bid by its subsidiary within a stated period of time.

(7) A list of all major items of equipment to be used in those classes of work for which prequalification certification is requested including the original cost, age, location and condition of such equipment. The schedule shall show whether the equipment is owned, leased or rented. All major items of useful equipment should be listed even though fully depreciated but no obsolete or useless equipment should be included. In the event the contractor seeks prequalification certification to perform work on ferry vessels, the schedule shall also describe plant facilities of the contractor including shipyards, dry docks, repair facilities and other plant facilities.

(8) Such other information as may be required by the prequalification questionnaire.

AMENDATORY SECTION (Amending Order 114, filed 9/14/88)

WAC 468-310-050 Classification and capacity rating. (1) Each contractor seeking prequalification under these rules will be classified for one or more of the classes of work listed in subsection 8 of this section and will be given a maximum capacity rating in accordance with its financial ability, the adequacy of its equipment and plant facilities to perform the class or classes of work for which it has sought prequalification, the extent of the contractor's experience in performing contracts of the class or classes for which prequalification is sought, and the adequacy of the experience and capability of the contractor's officers and key employees in performing contracts of the class or classes for which prequalification is sought. The maximum capacity rating will limit the quantity of uncompleted work which the contractor shall have under contract at any one time either as a prime contractor or a subcontractor.

(2) The maximum capacity rating for a contractor applying for a rating in excess of ~~((50,000))~~ fifty thousand dollars will be ten times the contractor's net worth as set forth in the standard prequalification questionnaire and financial statement. A properly executed letter of credit from an acceptable financial institution may be considered as an asset increasing the contractor's maximum capacity rating by the amount of the credit, but without the use of a multiplier. The maximum capacity rating for a contractor not submitting an audited financial statement as provided in ~~((subsection (6) of))~~ WAC 468-310-020(6) will be ~~((10,000,000))~~ ten million dollars: *Provided*, That in all cases the contractor's maximum capacity rating may be reduced to an amount considered by the department to be within the contractor's actual capacity based upon its organization, personnel, equipment and plant, and experience.

(3) Consideration will be given to raising, by an amount not to exceed 50 percent, the maximum capacity rating of a contractor who qualifies with respect to actual capacity based upon organization, personnel, equipment and plant facilities, and experience, upon receipt of evidence of a current bonding capacity of such additional amount with a corporate surety. Such evidence shall be in the form of a letter of commitment executed by an officer of the surety who is authorized to bind the surety. Notwithstanding the provisions of this subsection, the maximum capacity rating for a contractor not submitting an audited financial statement as provided in ~~((subsection (6) of))~~ WAC 468-310-020(6) will be ~~((10,000,000))~~ ten million dollars.

(4) The certificate of prequalification issued by the department will establish a contractor's maximum capacity rating which will be subject to reduction by the total value of its current uncompleted work regardless of its location and with whom it may be contracted to determine the contractor's bidding capacity at the particular time. ~~((This bidding capacity shall be called "current capacity."))~~

(5) ~~((In determining the current capacity of a contractor, the deduction for uncompleted work will include work subcontracted from others and the contractor will be given a credit for work sublet to others.~~

~~(6) In order that the department may have the necessary information to determine a contractor's current capacity, the contractor shall submit to the department for each contract for which it intends to submit a bid (at the time it requests a bid or proposal form) a certificate of the contractor's current capacity which will be prepared by it and executed under oath and which will be accompanied and supported by a status of contracts on hand report. In making this certification, the contractor certifies that its current capacity is sufficient to cover the amount of any single contract for which it has submitted a bid.~~

~~(7))~~ Notwithstanding the provisions of this section, a contractor will be allowed to submit a bid for an amount up to \$50,000 on a class or classes of work for which it is prequalified without regard to any financial maximum capacity rating or financial current capacity rating: *Provided*, That the contractor's current capacity may be reduced to an amount considered by the department to be within the contractor's actual capacity based upon its organization, personnel, equipment and plant facilities, and experience.

~~((8))~~ ~~(6)~~(a) Construction, repair and maintenance work on ferry vessels ~~((and main ferry terminal buildings))~~ for which prequalification certification under these rules may be granted are classified as follows:

- Class ~~((1))~~ ~~81~~ Vessel construction and renovation;
- Class ~~((2))~~ ~~82~~ Dry-docking and hull repairs;
- Class ~~((3))~~ ~~83~~ Vessel metal fabrication repairs;
- Class ~~((4))~~ ~~84~~ Vessel electrical repairs;
- Class ~~((5))~~ ~~85~~ Vessel miscellaneous repairs;
- ~~((Class 6~~ ~~New terminal building construction and terminal building major reconstruction and remodeling;~~
- Class 7 Terminal building renovation and repairs;
- Class 8 Painting (terminals only);
- Class 9 Roofing (terminal buildings only);
- Class 10 Terminal structures — miscellaneous, including pile driving.)

(b) A contractor currently prequalified under RCW 47.28.070 to perform those classes of work required in the construction, improvement and repair of ferry terminal facilities ~~((other than main terminal buildings))~~ will initially be deemed prequalified under these rules to perform such classes of work with the same capacity rating as approved by the department for highway related work.

AMENDATORY SECTION (Amending Order 84, filed 9/12/83)

WAC 468-310-060 Review of restrictions in prequalification certificate. Any contractor dissatisfied with restrictions on the dollar amount or class of work approved in its prequalification certificate may ~~((file a complaint))~~ request in writing, a review of their questionnaire and qualification rating with the ~~((assistant secretary for marine transportation))~~ director of Washington state ferries together with supporting documentation. The request must be filed within thirty calendar days of the date of receipt of the notice of qualification and must specifically state the basis for the request. The ~~((assistant secretary))~~ director or ~~((his))~~ designee shall

~~((review any such complaint and any data furnished by the contractor and may affirm or modify such restrictions in the prequalification certificate))~~ advise the applicant of his or her decision of the reconsideration within thirty calendar days of receipt of the request.

AMENDATORY SECTION (Amending Order 84, filed 9/12/83)

WAC 468-310-100 Delegation of authority. The ~~((assistant secretary for marine transportation))~~ director of Washington state ferries is delegated authority to administer the provisions of chapter 133, Laws of 1981 and chapter 468-310 WAC. The ~~((assistant secretary for marine transportation))~~ director of Washington state ferries is delegated authority to exercise all powers vested in the secretary of transportation by WAC 468-10-234 relating to the adoption of a final order granting, denying or revoking a prequalification certificate pursuant to chapter 133, Laws of 1983. The ~~((assistant secretary for marine transportation))~~ director of Washington state ferries may further subdelegate authority to exercise all powers vested in the secretary of transportation by WAC 468-10-234. A person to whom such authority is subdelegated shall be deemed to be the designee of the secretary of transportation as that term is used in WAC 468-10-234.

WSR 99-03-029

PERMANENT RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 99-02—Filed January 13, 1999, 10:40 a.m.]

Date of Adoption: December 5, 1998.

Purpose: Amend recreational license and license issuance rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-55-075, 220-55-155, 232-12-069, and 232-12-241; and amending WAC 220-55-005, 220-55-010, 220-55-015, 220-55-040, 220-55-050, 220-55-055, 220-55-060, 220-55-065, 220-55-070, 220-55-100, 220-55-105, 220-55-110, 220-55-115, 220-55-120, 220-55-125, 232-12-001, 232-12-157, 232-12-166, 232-12-189, and 232-12-619.

Statutory Authority for Adoption: Chapter 191, Laws of 1998; RCW 75.08.080.

Adopted under notice filed as WSR 98-21-072 on October 21, 1998.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 220-55-105 Personal use license dealer—Bonding, prepayment and remittance requirements, differs from the proposed version filed with the code reviser in the following specifics:

The first sentence in new subsection (3) was deleted and replaced with the following language: All moneys collected from the sale of licenses, stamps, and other department property must be received in the department by the 10th day of the following month in which they were sold.

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This adjustment clarifies the language regarding remittance of license revenue.

In subsection (4), "agent" was replaced with "officer."

This adjustment makes the language consistent with other RCWs and WACs.

The adopted version of WAC 232-12-072 Eastern Washington pheasant enhancement—Funding level determination, differs from the proposed version filed with the code reviser in the following specifics:

The following was deleted: "The department will deposit one-quarter ... annual hunter survey." and replaced with the following: "The department shall deposit into the Eastern Washington pheasant enhancement account 26.06% of the funds received from the sale of small game licenses."

This adjustment allows for fluctuation in license sales without adversely affecting other programs funded by small game licenses.

The adopted version of WAC 232-12-189 Duplicate licenses, tags, etc.—Rules for issuance, differs from the proposed version filed with the Code Reviser in the following specifics:

In paragraph 2, "game" was replaced with "recreational."

This adjustment makes the language consistent with other RCWs and WACs.

The adopted version of WAC 232-12-830 Waters in which either a personal use freshwater or personal use saltwater fishing license is valid, differs from the proposed version filed with the code reviser in the following specifics:

In subsection (1), "the Megler-Astoria Bridge" was deleted and replaced with "a line between Rocky Point on the Washington shore and Tongue Point on the Oregon shore."

This adjustment expands the lower Columbia River area to include all sturgeon fishing grounds in the lower Columbia.

Subsection (4) was deleted.

This adjustment eliminates confusion concerning river mouth exceptions.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 20, Repealed 4.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 11, 1999

Lisa Pelly, Chair

Fish and Wildlife Commission

NEW SECTION

WAC 220-55-001 Definitions. Unless otherwise provided, the following definitions apply to this chapter:

(1) "Blind" means no vision or vision with corrective lenses so defective as to prevent the performance of ordinary activities for which eyesight is essential.

(2) "License year" is defined as April 1st through the following March 31st.

(3) "Personal use license" and "recreational license" have the same meaning, and refer to all licenses issued under RCW 77.32.450 through 77.32.490.

(4) "Veteran" means a veteran of the United States Armed Forces.

AMENDATORY SECTION (Amending Order 96-13, filed 2/9/96, effective 3/11/96)

WAC 220-55-005 ((~~Personal use food fish~~)) Recreational license. A ~~((personal use food fish))~~ recreational license is a license ~~((card))~~ document issued by the department and ~~((shall be color coded to designate resident, nonresident, three consecutive day, or senior citizen))~~ in the case of a shellfish-seaweed license consists of the license and shellfish validation tag. The license is invalid unless the ~~((fisher))~~ personal identification information on the license has been completed and the ~~((fisher))~~ licensee has signed the license except that a temporary fishing license is issued either as a license document requiring personal identification information or as a stamp, which is invalid unless the two-consecutive days for which it is valid are entered, in permanent ink, on the stamp. ~~((A license is invalid for taking salmon and other food fish from Catch Record Card Areas 5 through 13 and Lake Washington unless a recreational fisheries enhancement stamp has been permanently affixed to a license card in the space provided, and that license is in the physical possession of the fisher except that a recreational fisheries enhancement stamp is not required for three consecutive day licenses, five-year disability licenses or for any licenses issued at no cost. Any fisher who has filled a salmon catch record card and purchased another personal use food fish license in order to continue fishing for salmon need not purchase a second recreational fisheries enhancement stamp, provided the fisher has the original license card with recreational fisheries enhancement stamp attached in the fisher's possession.))~~

AMENDATORY SECTION (Amending Order 96-13, filed 2/9/96, effective 3/11/96)

WAC 220-55-010 ((~~Personal use~~)) Recreational shellfish and seaweed ((license)) validation tag. ~~((A))~~ The recreational personal use shellfish and seaweed ~~((license shall consist of a))~~ validation tag ~~((printed and issued by the department. The license))~~ shall be provided with an opening for attachment or display on outer clothing ~~((and shall be color coded to designate resident, nonresident, three consecutive day or senior citizen)).~~ The ~~((license shall be invalid unless the harvester information on the license has been completed and the harvester has signed the license))~~ validation

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must be displayed on outer clothing while harvesting or transporting shellfish in the field.

AMENDATORY SECTION (Amending Order 94-162, filed 11/14/94, effective 12/15/94)

WAC 220-55-015 Valid ~~((personal-use))~~ recreational license required. (1) It is unlawful for any person required to have a recreational license to take or possess ~~((food))~~ fish or ~~((shellfish))~~ wildlife for personal use without having in physical possession a valid license. ~~((A personal-use shellfish and seaweed license is not required for private tideland owners or lessees of state tidelands or members of their immediate family to harvest clams, oysters, cockles, borers, or mussels taken for personal use from their own tidelands:~~

~~((2) A shellfish and seaweed license must be displayed on outer clothing while harvesting or transporting shellfish in the field.~~

~~((3) The department will not replace lost or mutilated personal-use licenses.))~~

AMENDATORY SECTION (Amending WSR 94-01-001, filed 12/1/93, effective 1/1/94)

WAC 220-55-040 ~~((Free license definitions))~~ License, tag and stamp refunds. ~~((For purposes of free licenses issued by the department:~~

~~((1) A person who is blind, or blind person, means a person who has no vision or whose vision with corrective lenses is so defective as to prevent the performance of ordinary activities for which eyesight is essential.~~

~~((2) Veteran means a veteran of the United States Armed Forces.))~~ (1) The department will not refund any recreational license or transport tag purchase for which a season or hunt has been scheduled, and the licensee could have participated in the season or hunt, regardless of whether the licensee did in fact participate.

(2) The department will not refund migratory bird stamp purchases.

(3) The department will refund the purchase of a second license when such purchase was made on behalf of the licensee by someone other than the licensee.

AMENDATORY SECTION (Amending Order 96-13, filed 2/9/96, effective 3/11/96)

WAC 220-55-050 ~~((Three consecutive day))~~ Temporary fishing or hunting license validation date. On a ~~((three consecutive day personal use food fish or shellfish and seaweed))~~ temporary fishing or hunting license, the validation date is the first date on which ~~((an angler))~~ a licensee may hunt or fish ~~((for, harvest or possess food fish and shellfish))~~ and the temporary license expires at midnight of the day after the validation date for temporary fishing licenses and at midnight of the second day after the validation date for three-consecutive-day small game licenses.

AMENDATORY SECTION (Amending Order 96-13, filed 2/9/96, effective 3/11/96)

WAC 220-55-055 ~~((Personal use license and catch record card expiration.))~~ Age of purchaser. ~~((The expiration date for all personal use licenses and catch record cards is December 31st of the year printed on the license or catch record card, except a three consecutive day license expires at midnight of the day after the validation date or December 31st, whichever occurs first, and a disability license expires five years after the date of issue.))~~ (1) The age at the time of purchase determines the license necessary for the recreational activity.

(2) Youth hunters who turn sixteen years of age during the license year may use a previously purchased youth hunting license during the remainder of the license year, but are required to have a state migratory bird stamp affixed to the license on and after their sixteenth birthday, if they are hunting migratory birds.

(3) Youth fishers who turn fifteen years of age during the license year are required to purchase a youth fishing license.

(4) Youth fishers who turn sixteen years of age during the license year may use a previously purchased youth fishing license during the remainder of the license year.

(5) Resident seniors who turn seventy years of age during the license year may use a previously purchased saltwater or freshwater fishing license during the remainder of the license year.

AMENDATORY SECTION (Amending WSR 94-01-001, filed 12/1/93, effective 1/1/94)

WAC 220-55-060 ~~((Free personal-use))~~ Reduced fee license issuing procedure. Upon request and presentation of required documentation, a ~~((free personal-use license and catch record))~~ disability authorization card will be issued by the ~~((license supervisor of the))~~ department to any qualified applicant under RCW ~~((75.25.110))~~ 77.32.480. ~~((Persons not required to have a license under RCW 75.25.091 or 75.25.092 will be issued a free license, for their convenience, upon request. A lost, mutilated, or illegible free license will be replaced by the license supervisor upon request.))~~ Such card entitles the card holder to a reduced fee license which may be purchased at any authorized license dealership or department regional office.

AMENDATORY SECTION (Amending WSR 94-01-001, filed 12/1/93, effective 1/1/94)

WAC 220-55-065 ~~((Physical disability permit))~~ Fishing for shellfish, freshwater fish or saltwater fish by persons of disability. ~~((1) Persons who are disabled, but are not entitled to a free license under RCW 75.25.110 or WAC 220-55-060, may obtain a physical disability permit upon application to the license supervisor of the department. Application must be made on a form supplied by the department and be accompanied by a statement of condition signed by a physician.~~

(2) Any personal-use licensed fisher or shellfish harvester who has a disability permit and is present at the fishing

or harvest site may have another personal use licensed fisher or harvester fish or harvest for the person who is disabled.

(3) ~~A seaweed and shellfish licensee with a disability permit need not be present at the site for another licensee to harvest razor clams, but must be in a direct line of sight or within one-quarter mile of the harvest site if the direct line of sight is obstructed. A person harvesting razor clams for a person who has a disability permit must keep his or her razor clams separate from the razor clams being harvested for the person who is disabled.)~~ (1) Definitions:

(a) "Designated harvester" means a licensed fisher who accompanies a disabled fisher and assists the disabled fisher in the taking of shellfish, game fish or food fish.

(b) "Disabled fisher" means a person of disability who possesses a valid fishing license or shellfish license issued by the department. A disabled fisher must have all required licenses and catch record cards before fishing.

(c) "Disabled harvester identification card" means a card issued by the department to any person of disability who applies to the department and presents such evidence as the director may require showing that the applicant is a person of disability. Upon issuance of a disabled license, the department will also issue a designated harvester identification card.

(d) "Person of disability" means:

(i) A permanently disabled person who is not ambulatory over natural terrain without a prosthesis or assistive device;
or

(ii) A permanently disabled person who is unable to hold or use any legal fishing or shell fishing device; or

(iii) A person who is totally blind or visually impaired.

This definition includes, but is not limited to, permanently disabled persons with upper or lower extremity impairments who have lost the use of one or both upper or lower extremities, or who have a significant limitation in the use of upper or lower extremities, or who have a diagnosed disease or disorder which substantially impairs or interferes with mobility of the use of upper extremities.

(e) "Visually impaired" means central visual acuity that does not exceed 20/200 in the better eye with corrective lenses, or the widest diameter of the visual field is no greater than 20 degrees.

(2) The designated harvester, when accompanied by the disabled fisher, may assist the disabled fisher in taking shellfish, game fish and food fish on behalf of the disabled fisher.

(3) It is unlawful for a designated harvester to assist a disabled fisher unless the disabled fisher is present and participating in the fishing activity; except, the disabled fisher is not required to be present at the location where the designated harvester is harvesting shellfish for the disabled person. The licensee is required to be in the direct line of sight of the designated harvester who is harvesting shellfish for him or her, unless it is not possible to be in a direct line of sight because of a physical obstruction or other barrier. If such a barrier or obstruction exists, the licensee is required to be within one-quarter mile of the designated harvester who is harvesting shellfish for him or her.

(4) It is unlawful for a designated harvester to assist a disabled fisher unless the designated harvester has the designated harvester identification card on his or her person.

(5) Shellfish, game fish or food fish harvested by a designated harvester on behalf of a disabled fisher become part of the disabled fisher's bag or possession limit, and must be kept separate from the designated harvester's bag or possession limit.

AMENDATORY SECTION (Amending WSR 94-01-001, filed 12/1/93, effective 1/1/94)

WAC 220-55-070 Valid catch record card. A catch record card required while fishing for halibut in Catch Record Card Areas 5 through 13, sturgeon in Grays Harbor, Willapa Bay or the Columbia River and tributaries to these three systems, or anadromous salmon anywhere in the state (see WAC 220-56-175) shall be invalid unless:

(1) The angler possesses the appropriate ~~((personal use))~~ recreational license for the ~~((fishery))~~ area in which the angler is participating, if a license is required.

(2) The catch record card number is written in ink in the appropriate space on the back of the ~~((personal use))~~ recreational license, if a license is required.

(3) The license issuance date is legible and not altered, and the license has not been mutilated.

AMENDATORY SECTION (Amending WSR 94-01-001, filed 12/1/93, effective 1/1/94)

WAC 220-55-100 ~~((Personal use food fish license and shellfish and seaweed license dealer.)) Fish and wildlife lands vehicle use permit.~~ ~~((A personal use food fish license and shellfish and seaweed license dealer is any person, business, corporation or governmental agency authorized by the director to issue personal use licenses, recreational fisheries enhancement stamps, and catch record cards.))~~ **Recreational license dealers are to issue a fish and wildlife lands vehicle use permit with each annual recreational license sold, except for shellfish-seaweed licenses, and with each trapping license sold. If the fish and wildlife lands vehicle use permit is not issued, it is to be returned to the department with the department's copy of the license, and is due by the 10th of the month following the sale of the license.**

AMENDATORY SECTION (Amending WSR 94-01-001, filed 12/1/93, effective 1/1/94)

WAC 220-55-105 ~~((Personal use license dealer— Bonding, prepayment and remittance requirements.)) Requirements of recreational license dealers.~~ ~~((+))~~ **A personal use license dealer who has been authorized less than twenty-four months must either post a surety bond or prepay for licenses and recreational fisheries enhancement stamps. The total value of licenses and stamps issued to bonded dealers will not exceed the amount of the bond.**

(2) ~~Personal use license dealers who have been authorized for twenty-four months or longer and who have had no more than three late remittances or more than one audit exception in a twelve-month period and who provide proof of casualty, theft or loss insurance may be issued licenses without bonding or prepayment.~~

~~(3) Personal use license dealers who have been issued licenses without bonding or prepayment and thereafter have more than three late remittances in a twelve-month period or two audit exceptions in a twelve-month period will resume status as a new dealer.~~

~~(4) Personal use license dealers who make a remittance with insufficient funds must obtain a surety bond or prepay for all further licenses.~~

~~(5) Personal use license dealers shall report license sales on forms provided by the department and shall remit receipts from those sales to the department no later than the tenth day of each month following the close of business for the previous calendar month. Receipts from sales of personal use licenses are the property of the state of Washington. Failure to remit receipts from the sales of personal use licenses within sixty days of the sale of the license may result in criminal prosecution pursuant to Title 9A RCW, the Washington Criminal Code.) (1) The director or his/her designee may deputize persons, firms or corporations as license dealers in such numbers as deemed necessary for the purpose of issuing licenses, permits, tags, stamps and punchcards.~~

~~(2) License dealers must sell a minimum of two hundred fifty licenses per year, have a permanent place of business with regular business hours, and have a type of business that supports hunting and fishing activities. Exceptions to this rule may be granted by the director or his/her designee upon written appeal.~~

~~(3) All moneys collected from the sale of licenses, stamps, and other department property must be received in the department by the 10th day of the following month in which they were sold. High volume license dealers or dealers with a history of late payments may be required to remit moneys on a more frequent basis.~~

~~(4) All records held pursuant to the statutes and regulations dealing with license dealers must be open to inspection by a fish and wildlife officer or department designee at reasonable times.~~

~~(5) License dealers who remit payments after the 10th of the month on more than two occasions in one year will be required to obtain a bond equal to the value of their license stock or make electronic fund transfer payment arrangements. "One year" is defined as beginning on the first month in which the license dealer is late making a payment due by the 10th of that month. A dealer who is late a third time, or sporadically thereafter, may lose their license dealership. No license dealer may receive additional license inventory if they are in arrears on license payments.~~

AMENDATORY SECTION (Amending Order 96-13, filed 2/9/96, effective 3/11/96)

WAC 220-55-110 (~~Three consecutive day~~) **Temporary fishing and hunting license and catch record card—License dealer issuance duties.** (1) A ((personal use)) recreational license dealer must, at the time of sale of a ((three consecutive day license)) temporary fishing or three-consecutive-day small game license, write the validation date in ink on the license document. The validation date is the first day on which a licensee may fish for, harvest or possess ((food)) fish or ((shellfish)) wildlife.

(2) A ((personal use)) recreational license dealer must, at the time of distribution of a catch record card, record in ink the number of the catch record card in the appropriate space on the personal use food fish license, if a personal use food fish license is required for the fisher.

AMENDATORY SECTION (Amending WSR 94-01-001, filed 12/1/93, effective 1/1/94)

WAC 220-55-115 (~~Personal use~~) **Recreational license dealer's fees.** ((Personal use dealers may retain a license fee of one dollar for each personal use food fish license, personal use shellfish and seaweed license, and recreational fisheries enhancement stamp sold. No dealer's fee may be charged for free licenses issued by dealers to residents seventy years of age or older, or for distributing catch record cards to any fisher.)) Dealer fees are defined as fees in excess of license fees.

(1) License dealers may charge an agent fee of one dollar for the issuance of each license document and fifty cents for the issuance of each separate tag, permit, special hunting permit application, and the state migratory waterfowl stamp sold manually.

(2) License dealers with point-of-sale equipment may charge an agent fee of one dollar for each license transaction and fifty cents for each state migratory waterfowl stamp.

(3) License dealers must also collect transaction fees as calculated by the point-of-sale system. These transaction fees are two dollars and fifty cents for five or fewer licenses and license packages, and must be remitted to the department with the license fee remittance.

AMENDATORY SECTION (Amending WSR 94-01-001, filed 12/1/93, effective 1/1/94)

WAC 220-55-120 (~~Personal use~~) **Recreational licenses ((and recreational fisheries enhancement)), stamps and tags—((Redemption and)) Inventory return.** ((1) Personal use license dealers may redeem prepaid personal use food fish licenses, personal use shellfish and seaweed licenses, and recreational fisheries enhancement stamps for full value by returning unused stock to the department licensing division not later than January 31 of the year following expiration. Dealers who return stock by mail are entitled to a refund if the postmark is no later than January 31st. No redemption will be made for licenses or stamps received or postmarked after January 31st.

(2) Bonded dealers and dealers who are not required to prepay or bond must return all unused personal use licenses and recreational fisheries enhancement stamps by January 31st of the year following expiration. After January 31st any unreturned licenses or stamps will be presumed to have been sold and remittance will be required under WAC 220-55-105.) Recreational license dealers are required to return all unused licenses and transport tags and unsold migratory bird stamps to the department by April 30th following the license year for which the licenses and transport tags were issued. No refund will be given for migratory bird stamps received after April 30th.

AMENDATORY SECTION (Amending WSR 94-01-001, filed 12/1/93, effective 1/1/94)

WAC 220-55-125 Catch record cards—Accountability and inventory return. A ~~((personal use))~~ recreational license dealer issuing catch record cards for salmon, sturgeon, ~~((and))~~ halibut, and steelhead is subject to the following rules:

(1) Catch record card books may not be transferred from one dealer to another without written permission from the department.

(2) All catch record card books from which all cards have been issued, and any catch record card returned to a dealer by a fisher, must be returned to the department within ten days after the end of each calendar month.

(3) Any dealer terminating business or closing for the license year prior to ~~((December))~~ March 31st must return any unused or partially used catch record card books within thirty days of terminating business or closing for the year.

(4) All partially used catch record card books must be returned to the department by ~~((January 31st))~~ April 30th of the license year following the year printed on the catch record cards. All complete unused catch record card books, and any catch record cards that are void, lost, destroyed or otherwise missing from a dealership, must be accounted for in writing to the department by ~~((January 31st))~~ April 30th of the year following the year printed on the catch record cards.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-55-075	Recreational fisheries enhancement stamp.
WAC 220-55-155	Personal use license dealer's fee.

NEW SECTION

WAC 232-12-072 Eastern Washington pheasant enhancement—Funding level determination. The department shall deposit into the Eastern Washington pheasant enhancement account 26.06% of the funds received from the sale of small game licenses.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 232-12-001 Definition of terms. Definitions used in rules of the commission are defined in RCW 77.08.010. In addition, unless otherwise provided:

(1) "Snagging" means an effort to take fish with a hook and line in a manner such that the fish does not take the hook voluntarily in its mouth.

(2) "Gaffing" means an effort to take fish by impaling the fish with a hook attached directly to a pole or other device.

(3) "Spearing" and "spear fishing" means an effort to take fish by impaling the fish on a shaft, arrow, or other device.

(4) A "valid" license, permit, tag, stamp or catch record card means a license, permit, tag, stamp, or catch record card that was issued to the bearer for the current season and is required to hunt, fish or possess wildlife and has not been altered except as provided by rule of the commission.

(5) "Hook" means one single, double, or treble hook. A "single hook" means a hook having a single point; a "double hook" means a hook having two points on a common shank; and a "treble hook" means a hook having three points on a common shank. "Barbless hook" means a hook on which all barbs have been deleted when manufactured, filed off, or pinched down.

(6) "Falconry" means possession, control, or use of a raptor for the purpose of hunting and free flight training.

(7) "Anadromous game fish" means:

(a) Steelhead trout, *Oncorhynchus mykiss*, defined as any searun rainbow trout over twenty inches in length

(b) Searun cutthroat, *Oncorhynchus clarkii*

(c) Searun Dolly Varden, *Salvelinus malma*

(8) "Handgun" means any pistol, revolver or short fire-arm with a barrel length of less than sixteen inches and does not have a shoulder stock.

(9) "Lure" means a manufactured article constructed of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber or plastic which does not use scent and/or flavoring to attract fish. "Nonbuoyant lure" means a lure, complete with hooks, swivels or other attachments, that does not float in freshwater.

(10) "Bait" means any substance which attracts fish or wildlife by scent and/or flavor. Bait includes any device made of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber or plastic which uses scent and/or flavoring to attract fish or wildlife.

(11) "Possession limit" means the number of daily limits allowed to be retained in the field or in transit.

(12) "Daily limit" means the maximum number of game fish which a person may legally retain in a single day.

(13) "Boat fishing" means fishing while in or on a boat, raft, or any other floating device.

(14) "Catch-and-release" means a type of angling where none of the fish caught are retained by the angler.

(15) "Fish in possession" means any fish retained, secure from escape, whether dead or alive. Bass or Walleye may be caught, retained, and released alive from a livewell until a daily limit is in possession.

(16) "Mouth" of stream, river, or slough means those waters upstream of a line projected between the outermost uplands at the mouth. Outermost uplands means those lands are not covered by water during an ordinary high water.

(17) Fish length means the length of a fish measured from snout to tip of tail not fork.

(18) Slough means any swamp, marsh, bog, pond, side-channel, or backwater connected to a river by water. Many waters commonly called sloughs are not connected to a river and, therefore, are considered lakes.

(19) "In the field or in transit" means any place other than at the ordinary residence of the harvester. An ordinary residence is a residential dwelling where a person normally lives, with associated features such as address, telephone number, utility account, etc. A motorhome or camper parked

at a campsite or a vessel are not considered to be an ordinary residence.

(20) "Seasonal wild steelhead limit" means the maximum number of wild steelhead trout any one angler may retain from May ~~((1st through the following April 30th))~~ 1, 1998, through April 30, 1999; May 1, 1999, through March 31, 2000; and thereafter April 1st through the following March 31st.

(21) "Wild steelhead" means a steelhead trout that does not have the adipose or a ventral fin removed and a healed scar at the removal site.

(22) "Fresh" means game fish that are refrigerated, iced, salted, or surface glazed.

(23) "Frozen" means a game fish that is hard frozen throughout.

(24) "Processed" means a game fish that has been processed by heat for human consumption as kippered, smoked, boiled or canned.

(25) "Juvenile" means a person under fifteen years old.

(26) "Wild" when used to describe the difference between a hatchery fish and a nonhatchery fish means a fish with all fins intact. A fish missing an adipose fin or a ventral fin with a healed scar at the location of the missing fin is not a wild fish.

AMENDATORY SECTION (Amending Order 252, filed 5/23/85)

WAC 232-12-157 Steelhead ~~((permit))~~ catch record card. (1) It is unlawful for a person, except a treaty Indian possessing a valid federal or treaty fishing identification card, to fish for steelhead trout without having in their immediate possession a valid steelhead ~~((permit))~~ catch record card.

(2) Upon retaining a steelhead trout over twenty inches in length, the holder of a steelhead ~~((permit))~~ catch record card must immediately enter on the ~~((permit))~~ catch record card in ink the date of the catch and the river code number as listed on the card.

(3) Every person possessing a steelhead ~~((permit))~~ catch record card must, by June 1, following the period for which it was issued, return that ~~((permit))~~ catch record card to an authorized license dealer or the department.

AMENDATORY SECTION (Amending Order 632, filed 4/14/94, effective 5/1/94)

WAC 232-12-166 Northern squawfish sport-reward fishery Columbia and Snake rivers. The Washington department of fish and wildlife shall administer a bounty voucher program for Northern squawfish (*Prychocheilus oregonensis*) taken by legal fishing methods, in waters open to fishing, from the mouth of the Columbia River to the boundary markers 650 feet below the fish ladders at Priest Rapids Dam; from the mouth of the Snake River to the boat restricted zone below Hells Canyon Dam, and from ~~((the))~~ the backwaters and sloughs as well as up to 400 feet into the tributaries of the reaches listed above on the Columbia and Snake rivers. In addition, the following requirements shall be met to qualify for a voucher:

(a) Each angler must register in person, prior to fishing, at one of the registration stations each fishing day. A fishing day is a 24-hour period from 9:01 p.m. through 9:00 p.m. of the following day;

(b) Each angler, in person must exchange their eligible Northern squawfish for a voucher during the posted hours, and at the same registration station where the angler registered during the same fishing day;

(c) Each Northern squawfish must be eleven inches or longer in total length and presented in fresh condition or alive;

(d) Anglers shall provide information regarding their catch as requested by department personnel at the registration site and mail in survey forms; and

(e) Anglers shall obtain ~~((a Washington state game fishing license to fish for Northern squawfish) [angling licenses])~~ a valid Washington state fishing license and must use a single rod, reel, and line with up to three hooks with no more than three points each.

AMENDATORY SECTION (Amending Order 267, filed 1/15/86)

WAC 232-12-189 Duplicate licenses, tags, etc.—Rules for issuance. Request for replacement of licenses, permits, tags, stamps or ~~((punchcards))~~ catch record cards required by chapter 77.32 RCW, which have been lost, mutilated, or stolen, must be made by the licensee.

Duplicate licenses, permits, tags, stamps and ~~((punchcards))~~ catch record cards may be issued at department offices or by ~~((game))~~ recreational license dealers.

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 232-12-619 Permanent Washington state-wide game fish regulations. The following state-wide regulations apply to all waters unless modified under regional regulation exceptions.

(1) Fishing seasons open at 12:01 a.m. on the first day and close at 11:59 p.m. on the last day.

(2) It is unlawful to:

(a) Use a gaff hook to land game fish.

(b) Take bullfrogs except by angling, hand dip netting, spearing (gigging) or with bow and arrow. A hunting license is required to take bullfrogs.

(c) Feed or use any substance to attract game fish unless specifically authorized by special regulations.

(d) Fish for game fish with a bow and arrow or spear.

(e) Possess fish which are under the minimum size or over the maximum size as shown in general or special regional regulations.

(3) ~~((Annual))~~ Seasonal wild steelhead limit - steelhead trout only: Each ~~((adult))~~ angler who possesses a valid steelhead catch record card may not retain more than thirty steelhead over twenty inches in length ~~((per year (May 1 to April 30)))~~ May 1, 1998, through April 30, 1999; May 1, 1999, through March 31, 2000; and thereafter April 1st through the following March 31st.

(4) Military personnel, regardless of the length of time in the state of Washington, who are permanently stationed at a military installation within the state, are entitled to purchase a resident license. Military personnel must have a license to fish for game fish anywhere in the state. Dependents must establish a ninety-day residency.

(5) Selective gear rules: In waters designated as being under selective gear rules, only artificial flies with a barbless single hook or lures with a barbless single hook are lawful. It is unlawful to use bait. Fish may be released until the daily limit is retained. It is unlawful to fish from any floating device equipped with a motor, unless specifically allowed under special rules for individual waters.

(6) Night closure: In waters designated as having a night closure, it is unlawful to fish from one hour after official sunset to one hour before official sunrise.

(7) Wild cutthroat release: In waters requiring a wild cutthroat release, it is unlawful to possess any cutthroat that does not have a missing adipose fin and a healed scar in the location of the missing fin.

(8) Wild steelhead release: In waters requiring wild steelhead release, it is unlawful to possess any steelhead trout that does not have a missing adipose or ventral fin and a healed scar at the location of the missing fin.

(9) Free fishing weekends: The weekends corresponding with National Fishing Week have been declared as family fishing weekends in Washington. On these weekends a fishing license is not required for any person, regardless of residency or age, to fish for or possess game fish, except that it is unlawful to fish for or possess steelhead trout without the required license and catch record card. During free fishing weekends only the licensing requirement is affected, and all other rules remain in effect.

(10) Trout taken with bait: When fishing with bait, all trout equal to or greater than the minimum size are counted as part of the daily limit, whether kept or released, except steelhead trout may be caught and released while using bait until the daily limit is retained.

(11) Fish taken with artificial flies and lures: Where use of bait is prohibited, or where artificial flies or lures are used voluntarily, fish may be released until the daily limit is retained. If any fish has swallowed the hook or is hooked in the gill, eye or tongue, it should be kept if legal to do so.

(12) Burbot taken with set line: Where use of a set line is allowed for burbot, a single set line identified with the fisher's name and address and a maximum of ten hooks may be used.

(13) Rainbow trout taken from landlocked lakes: Rainbow trout taken from landlocked lakes shall not be considered steelhead and no ~~((steelhead license or))~~ catch record card is required.

(14) OPEN SEASONS:

LAKES, PONDS, AND RESERVOIRS:	YEAR AROUND, unless specified otherwise under exceptions to state-wide rules.
RIVERS, STREAMS AND BEAVER PONDS:	JUNE 1 THROUGH OCTOBER 31, unless specified otherwise under exceptions to state-wide rules.

Note: The date set for "traditional" April openers for Lakes, Ponds, and Reservoirs for this year and future years is the last Saturday in April.

~~((Waters managed under April through October seasons are listed under the exceptions to state-wide rules.))~~

(15) Daily limits and minimum sizes:

GAME FISH SPECIES	DAILY LIMIT	MINIMUM SIZE LIMIT
BASS	Five - not more than three over fifteen inches Bass may be caught, retained, and released alive from a livewell until a daily limit is in possession.	None
GRASS CARP....	It is unlawful to fish for or retain grass carp.	
TROUT (except Eastern Brook trout)	A total of five trout, of which no more than two may be from Rivers, Streams, and Beaver Ponds.	None in Lakes, Ponds, and Reservoirs.
	No more than two of the trout daily catch limit of 5 may be Steelhead.	Eight inches in Rivers, Streams, and Beaver Ponds.
EASTERN BROOK TROUT (Salvelinus fontinalis)	Five - to be considered part of the trout daily catch limit.	None
BURBOT	Five	None
CHANNEL CATFISH	Five if taken from lakes, ponds or reservoirs.	Twelve inches if taken in lakes, ponds or reservoirs with no more than one greater than 24 inches in length.

(a) The following game fish species are managed as trout:

- Eastern brook trout
- Brown trout
- Cutthroat trout
- Dolly Varden/Bull trout
- Golden trout
- Kokanee/Silver trout
- Lake trout
- Landlocked Atlantic salmon
- Rainbow trout/Steelhead

PERMANENT

Landlocked chinook and coho

- (b) Wild steelhead release is required year-round.
- (c) All waters, state-wide, are CLOSED YEAR AROUND to fishing for or retaining Dolly Varden/Bull Trout.

Where exceptions to the above closure for Dolly Varden/Bull Trout occur under individual listings in the exceptions to state-wide rules, Dolly Varden/Bull Trout count as part of the combined trout daily limit of five.

WALLEYE	Five, not more than one over twenty-four inches	Eighteen inches
	Walleye may be caught, retained, and released alive from a livewell until a daily limit is in possession.	
WHITEFISH	Fifteen	None
ALL OTHER GAME FISH	No Limit	None
BULLFROGS	No Limit	None

- (16) Seasonal wild steelhead limits.
 - (a) It is unlawful for any person to retain more than two wild steelhead from the following watersheds:
 - (i) Clearwater River - mouth to Snahapish River.
 - (ii) Hoh River - mainstem, south fork and tributaries thereto.
 - (b) It is unlawful for any person to retain more than five wild steelhead from all of the following rivers and tributaries thereto:
 - (i) Bogachiel River.
 - (ii) Calawah River.
 - (iii) Dickey River.
 - (iv) Sol Duc River.
 - (v) Quillayute River.

(17) Possession limit. Except as otherwise provided, the possession limit is two daily limits in fresh, frozen or processed form.

(18) River mouths. The following river mouth definitions are exceptions to the general river mouth definition:

Abernathy Creek	Highway 4 Bridge.
Bear River	Highway 101 Bridge.
Bone River	Highway 101 Bridge.
Chehalis River	Highway 101 Bridge in Aberdeen.

Cowlitz River

Dakota Creek

Deschutes River

Drano Lake
Duwamish River

Elk River
Entiat River
Hoquiam River
Humtuplits River

Johns River
Kalama River

Kennedy Creek

Kettle River
Lake Washington
Ship Canal

Lewis River

Little White
Salmon River

Methow River
Naselle River
North Nemah River

A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.

A line from the outermost headland of the south bank to a house at 1285 Runge Avenue, Blaine, Washington, approximately one-quarter mile downstream from the Blaine Road Bridge.

A line projected across the river 400 feet below the lower Tumwater Falls fish ladder.

Highway 14 Bridge.
First Avenue South Bridge.

Highway 105 Bridge.
Highway 97 Bridge.
Highway 101 Bridge.
Mouth of Jessie Slough.

Highway 105 Bridge.
Boundary markers located at the mouth.

An arc 500 yards east of the midpoint of the northbound Highway 101 Bridge.

Barstow Bridge.

A line 400 feet west of the fish ladder at the Chittenden Locks.

Boundary markers at the mouth.

At boundary markers on the river bank downstream from the Little White Salmon National Fish Hatchery.

Highway 97 Bridge.
Highway 101 Bridge.
Highway 101 Bridge.

PERMANENT

Niawiakum River Highway 101 Bridge.
 North River Highway 105 Bridge.
 Palix River Highway 101 Bridge.
 Puyallup River 11th Street Bridge.
 Samish River Samish Island Bridge (Bayview-Edison Road).
 Sammamish River 68th Ave. N.E. Bridge.
 Skagit River A line projected from the terminus of the jetty with McGlenn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough.
 Skamokawa Creek Highway 4 Bridge.
 Skookum Creek A line 400 yards below the old railroad bridge.
 Snohomish River Burlington Northern Railway Bridges crossing main river and sloughs.
 South Nemah River Lynn Point 117 degrees true to the opposite shore.
 Spokane River State Route 25 Bridge.
 Tucannon Creek State Highway 261 Bridge.
 Wallace River The furthest downstream rail road bridge.
 Washougal River A straight line projected from the James River pump house southeasterly across the Washougal River to the east end of Highway 14 Bridge at the upper end of Lady Island.

Whatcom Creek A line projected approximately 14 degrees true from the flashing light to the southwesterly end of the Port of Bellingham North Terminal to the southernmost point of the dike surrounding the Georgia Pacific treatment pond.
 White Salmon River Markers downstream of the Burlington Northern Railroad Bridge.
 Wind River Boundary line/markers at mouth.
 Willapa River South Bend boat launch.
 Yakima River Highway 240 Bridge.

(19) Nonbuoyant lure and night closure restriction: In the following waters and during the periods shown, it is unlawful to use a nonbuoyant lure that has more than one single hook or has a hook measuring more than 3/4 inch point to shank and a night closure is in effect:

Area	Time Period
Naselle River (including all forks)	
Hwy 101 Bridge to Hwy 4 Bridge	July 1 - January 31
Hwy 4 Bridge to Big Hill Bridge	October 16 - January 31
Willapa River Mouth to Hwy 6 Bridge	October 1 - November 30
Hwy 6 Bridge to Fork Creek	October 16 - January 31
Humptulips River	September 1 - November 30
Satsop River (including all forks)	September 1 - November 30
Nemah River - North Fork	October 1 - November 30
Nemah River - Middle Fork	September 1 - November 30
Dungeness and Gray Wolf Rivers	August 1 - October 15
Kennedy Creek	October 1 - December 31
Nooksack River - South Fork mouth to Skookum Creek	August 1 - October 31
Upstream from Skookum Creek	June 1 - September 30
Big Quilcene River	August 1 - December 31

PERMANENT

Area	Time Period
Samish River	August 1 - December 31
Stillaquamish River (including all forks)	August 1 - November 30
Whatcom Creek	August 1 - December 31
Cowlitz River From Mill Creek to BarrierDam	August 1 - October 31
Kalama River From mouth to temporary rack	September 1 - October 31
Lewis River - North Fork From lower Cedar Creek Boat Ramp to Colvin Creek	August 1 - December 31
Washougal River Downstream of Salmon Falls Bridge	September 1 - October 31
Icicle River From Leavenworth Federal Fish Hatchery to mouth	May 8 - June 30
Wenatchee River From mouth of Icicle River to Highway 2 Bridge	May 8 - June 15
Skagit River (and tributaries) Upstream of Gilligan Creek	July 1 - November 30
Tokul Creek From mouth to posted cable markers	December 1 - March 31
Capitol Lake	August 1 - November 30
Deschutes River	August 1 - November 30
Elochoman River	September 1 - November 30
Grays River	September 1 - November 30
Green/Duwamish River mouth to Highway 164 Bridge	August 1 - November 30
McAllister Creek	August 1 - November 30
Nisqually River	August 1 - November 30
Puyallup River mouth to Carbon River	August 1 - November 30
Skykomish River (including all forks)	August 1 - November 30
Snohomish River	August 1 - November 30
White/Stuck River	October 1 - November 30
Toutle River - North Fork	September 1 - October 31

Area	Time Period
Green River (Cowlitz Co.) mouth to 1,500 feet below hatchery rack	September 1 - October 31

(20) Freshwater fishing hours: It is unlawful to fish during a night closure. A night closure is in effect for all waters during the period of a nonbuoyant lure restriction.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 232-12-069	Transport tag fees for black bear and cougar.
WAC 232-12-241	Requirements of license dealers.

NEW SECTION

WAC 232-12-830 Waters in which either a personal use freshwater or personal use saltwater fishing license is valid. In the following described waters, it is lawful to fish for food fish and gamefish with a personal use freshwater license, saltwater license, or combination license:

(1) Those waters of the Columbia River downstream from a line between Rocky Point on the Washington shore and Tongue Point on the Oregon shore.

(2) Those waters of Grays Harbor described as Catch Record Card Area 2-2 in WAC 220-56-185, and seaward of any river mouth as defined in WAC 232-12-001(16) and 232-12-619(18).

(3) Those waters of Willapa Bay described as Catch Record Card Area 2-1 in WAC 220-56-185, and seaward of any river mouth as defined in WAC 232-12-001(16) and 232-12-619(18).

**WSR 99-03-030
PERMANENT RULES
SPOKANE COUNTY AIR
POLLUTION CONTROL AUTHORITY**
[Filed January 13, 1999, 12:50 p.m.]

Date of Adoption: January 7, 1999.

Purpose: To limit particulate matter emissions from paved and unpaved roads as an integral part of the strategy to attain and maintain the National Ambient Air Quality Standard for PM10.

Citation of Existing Rules Affected by this Order: Amending SCAPCA Regulation I, Article VI, Section 6.14 and Section 6.15.

Statutory Authority for Adoption: Chapter 70.94 RCW. Adopted under notice filed as WSR 98-24-080 on December 1, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

PERMANENT

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 11, 1999

Eric Skelton

Director

SECTION 6.14 STANDARDS FOR CONTROL OF PARTICULATE MATTER ON PAVED SURFACES

AMENDATORY SECTION

REGULATION I SECTION 6.14.A. Applicability

A. Applicability. The provisions of Section 6.14 shall apply to any state, county, city or local government or private company that applies sanding materials to or mechanically sweeps or vacuums paved surfaces within the ~~((Spokane))~~ PM10 Nonattainment area. This Section shall also apply to all suppliers of sanding materials to be used by these affected entities.

AMENDATORY SECTION

REGULATION I SECTION 6.14.B Definitions

B. Definitions.

1. Affected Entities are any state, county, city or local government or private company that applies sanding material to, or mechanically sweeps or vacuums paved surfaces within the ~~((Spokane))~~ PM10 Nonattainment area.

2. Approved Laboratory means a certified or approved facility capable of performing the specified tests in a competent, professional, and unbiased manner in accordance with ASTM testing procedures.

3. The Authority is the Spokane County Air Pollution Control Authority

4. Base Sanding Amount is the average amount of sanding materials applied per lane mile by each affected entity within the ~~((Spokane))~~ PM10 Nonattainment Area during the 1992 - 1993 season or another base season, as requested by an affected entity and approved by the Authority.

5. Durability Index means the percent loss of weight as determined using ASTM "Standard Test Method for Resistance to Degradation of Small-Size Coarse Aggregate by Abrasion and Impact in the Los Angeles Machine", designated C131-89, or other approved ASTM procedure.

6. Full Deployment means that all priority roadways targeted for treatment during a snow/ice event are sanded.

7. Percent Fines means the percent material passing a #100 sieve as determined by the American Society for Test-

ing Materials (ASTM) "Standard Method for Sieve Analysis of Fine and Coarse Aggregates", Designation C136-84a (1988) (American Highway and Transportation Officials designation T27-88), or other approved ASTM procedure.

8. PM10 Nonattainment Area means the Spokane County PM10 Nonattainment Area, defined in CFR Title 40, Part 81, as designated on November 15, 1990. This definition will remain in effect, even after the United States Environmental Protection Agency makes the determination that the PM10 standard that existed before September 16, 1997, no longer applies to Spokane County. Retaining the definition ensures compliance with the Environmental Protection Agency's Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM₁₀ NAAQS, dated December 29, 1997, by continuing implementation of control measures in the State Implementation Plan and preserving air quality gains.

~~((8))~~9. Priority Roadway means any street, arterial, or highway, within the ~~((Spokane))~~ PM10 Nonattainment Area, with more than 15,000 average daily traffic count, and any connecting entrance or exit ramp.

~~((9))~~10. Recycled Sanding Materials means previously used sanding materials which have been collected from roadway or paved areas and are then reused as is, after washing, or after blending with new sanding materials.

~~((40))~~11. Sanding Materials means natural geologic materials, excluding salt and other de-icing chemicals, used to provide increased traction on roadways or paved areas.

~~((+))~~12. Season means the period beginning, November 1, in one calendar year and concluding on April 30, the next calendar year.

SECTION 6.15 STANDARDS FOR CONTROL OF PARTICULATE MATTER ON UNPAVED ROADS

AMENDATORY SECTION

REGULATION I SECTION 6.15.B. DEFINITIONS

B. Definitions.

1. Authority means the Spokane County Air Pollution Control Authority.

2. Ecology means the Washington Department of Ecology.

3. EPA means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency or his/her designated representative.

4. Implementation Plan has the same meaning as in Section 110 of the Federal Clean Air Act (42 USC 7410).

5. Maintenance Plan has the same meaning as in Section 175A of the Federal Clean Air Act (42 USC 7505).

6. Palliative means salts and other hygroscopic materials, petroleum resins, asphalt emulsions, adhesives, chemical soil stabilizers or other surface treatment materials acting as a method of dust control, and not prohibited for use by any local, state, or federal law, rule, or regulation.

7. Paved means application of concrete, asphaltic concrete, asphalt, or combination thereof as a means of forming a permanent surface for a road.

8. PM10 Nonattainment Area means the Spokane County PM10 Nonattainment Area, ~~((as))~~ defined in CFR Title 40, Part 81, as designated on November 15, 1990. This

definition will remain in effect, even after EPA makes the determination that the PM10 standard that existed before September 16, 1997, no longer applies to Spokane County. Retaining the definition ensures compliance with the EPA's Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM₁₀ NAAQS, dated December 29, 1997, by continuing implementation of control measures in the Implementation Plan and preserving air quality gains.

9. Reasonable Further Progress has the same meaning as in Section 171(1) of the Federal Clean Air Act (42 USC 7501).

Reviser's note: The typographical errors in the above material occurred in the copy filed by the and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 99-03-031

PERMANENT RULES

LIQUOR CONTROL BOARD

[Filed January 13, 1999, 1:19 p.m.]

Date of Adoption: December 3, 1998.

Purpose: To clarify the conditions under which persons under eighteen years of age may sell and handle cigarettes and tobacco products.

Citation of Existing Rules Affected by this Order: Amending WAC 314-10-040.

Statutory Authority for Adoption: RCW 66.08.030.

Adopted under notice filed as WSR 98-20-078 on October 6, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 11, 1999

Charles F. Brydon

Board Member

AMENDATORY SECTION (Amending WSR 93-23-016, filed 11/5/93, effective 12/6/93)

WAC 314-10-040 ((~~Employees under 18 allowed to sell and handle tobacco products.~~)) **How old do employees have to be to sell and handle cigarettes or tobacco products?** ((Employers holding a cigarette retailers license issued under RCW 82.24.500 may allow employees of any age to

sell tobacco products provided their employees meet the age employment requirements set by the department of labor and industries (RCW 26.28.060 and WAC 296-125-018.)) (1) **Any employee can sell and handle tobacco products when:**

(a) The business has a cigarette retailer's license; or

(b) The business has registered with the department of revenue; and

(c) There is a supervising employee who is eighteen years of age or older on the retail premises.

(2) If someone under fourteen years of age is employed by a retailer, the retailer must comply with the requirements of the department of labor and industries under RCW 26.28.060 and WAC 296-125-018.

(3) Having an employee under eighteen years of age who handles and sells cigarettes and tobacco products according to subsections (1) and (2) of this section is not:

(a) Considered "possessing" cigarettes and tobacco products and is therefore not a violation of RCW 70.155.080(1); or

(b) Considered "giving" the employee cigarettes and tobacco products and is therefore not a violation of RCW 26.28.080.

WSR 99-03-032

PERMANENT RULES

LIQUOR CONTROL BOARD

[Filed January 13, 1999, 1:20 p.m.]

Date of Adoption: November 18, 1998.

Purpose: The following rules outline the penalties for liquor licensees who violate the liquor laws: WAC 314-12-170 What are the penalties if a retail liquor licensee violates the liquor laws or rules?; 314-12-300 Group one (1) violations against public safety; 314-12-310 Group two (2) offenses—Conduct violations; 314-12-320 Group three (3) offenses—Regulatory violations; 314-12-330 Can the board impose sanctions or penalties other than those indicated in WAC 314-12-170?; and 314-12-340 What are some examples of mitigating and aggravating circumstances?

Citation of Existing Rules Affected by this Order: Amending WAC 314-12-170.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.010, 66.24.120.

Adopted under notice filed as WSR 98-18-096 on September 2, 1998.

Changes Other than Editing from Proposed to Adopted Version: WAC 314-12-170(2) the adopted version of this rule states, "Past violations within a two-year period will be considered." The proposed version stated "past violations within a three-year period will be considered."

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 5, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, 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 5, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 11, 1999
Charles F. Brydon
Board Member

AMENDATORY SECTION (Amending WSR 95-05-006, filed 2/1/95, effective 3/4/95)

WAC 314-12-170 (~~(Minimum penalty)~~) **What are the penalties if a retail liquor licensee violates the liquor**

laws or rules? (~~(When the board, pursuant to RCW 66.24.010 and 66.24.120, determines to suspend a liquor license and/or vacate a license suspension upon payment of a monetary penalty, then such license suspension shall not, in any event, be less than three operating days nor shall such monetary penalty, in any event, be less than one hundred dollars.)~~) (1) Penalties for violations by liquor licensees (or their employees while working for a liquor licensee) are broken down into three categories, with the most serious penalties first.

(a) Group One (1) - Public Safety Violations, WAC 314-12-300;

(b) Group Two (2) - Conduct Violations, WAC 314-12-310;

(c) Group Three (3) - Regulatory Violations, WAC 314-12-320.

(2) Past violations within a two-year period will be considered.

NEW SECTION

WAC 314-12-300 Group One (1) violations against public safety.

Violation Type	1st Violation	2nd Violation	3rd Violation	4th Violation
MINOR FREQUENTING a tavern, cocktail lounge or other age restricted area	5 day suspension OR \$500 monetary option	7 day suspension and no monetary option	30 day suspension and no monetary option	cancellation of license
SALES OR SERVICE: Of alcohol to persons under 21 years of age	5 day suspension OR \$500 monetary option	7 day suspension and no monetary option	30 day suspension and no monetary option	cancellation of license
CRIMINAL CONDUCT: Allowing or engaging in	5 day suspension OR \$500 monetary option	5 day suspension OR \$2,500 monetary option	10 day suspension OR \$5,000 monetary option	cancellation of license
DISORDERLY CONDUCT: Allowing patrons, by licensee or employee	5 day suspension OR \$500 monetary option	5 day suspension OR \$2,500 monetary option	10 day suspension OR \$5,000 monetary option	cancellation of license
INTOXICATED PERSONS: Sales to, service to, consumption by, possession by	5 day suspension OR \$500 monetary option	5 day suspension OR \$2,500 monetary option	10 day suspension OR \$5,000 monetary option	cancellation of license

NEW SECTION

WAC 314-12-310 Group two (2) offenses—Conduct violations.

Violation Type	1st Violation	2nd Violation	3rd Violation	4th Violation
EMPLOYEE: Under legal age or with no MAST Permit	5 day suspension OR \$250 monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	cancellation of license
FOOD SERVICE: Not available	5 day suspension OR \$250 monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	cancellation of license

PERMANENT

HOURS OF SERVICE: Sales, service, removal, consumption between 2:00 a.m. and 6:00 a.m.	5 day suspension OR \$250 monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	cancellation of license
INSPECTIONS: Refusing to allow	5 day suspension OR \$250 monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	cancellation of license
LEWD CONDUCT: Allowing	5 day suspension OR \$250 monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	cancellation of license
LIQUOR: Substituting, tampering, unlawful removal, possession, or unauthorized sale	5 day suspension OR \$250 monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	cancellation of license
MISUSE OF LICENSE: Or unauthorized use of license	5 day suspension OR \$1,500 monetary option	cancellation of license	cancellation of license	cancellation of license
RETAILER/NONRETAILER: Violations	5 day suspension OR \$250 monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	cancellation of license

NEW SECTION

WAC 314-12-320 Group three (3) offenses—Regulatory violations.

Violation Type	1st Violation	2nd Violation	3rd Violation	4th Violation
ADVERTISING: Violations	5 day suspension OR \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day license suspension with no monetary option
INVENTORY: Below amount required	5 day suspension OR \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day license suspension with no monetary option
KEG REGISTRATION: Failure to properly register kegs	5 day suspension OR \$500 monetary option	5 day suspension or \$1,000 monetary option	10 day suspension or \$1,500 monetary option	20 day license suspension with no monetary option
LICENSING: Unauthorized alterations, change of trade name or added activity. Inadequate lighting.	5 day suspension OR \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day license suspension with no monetary option
LIQUOR: Purchased from unauthorized source, sale below cost	5 day suspension OR \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day license suspension with no monetary option
NONRETAIL: Posting or label violations	5 day suspension OR \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day license suspension with no monetary option
RECORDS: Improper recordkeeping, failure to allow inspection of records	5 day suspension OR \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day license suspension with no monetary option
SIGNS: Failure to post required signs	5 day suspension OR \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day license suspension with no monetary option

PERMANENT

NEW SECTION

WAC 314-12-330 Can the board impose sanctions or penalties other than those indicated in WAC 314-12-170? Yes, the board has broad discretionary authority. Based on aggravating or mitigating circumstance, the board may impose a different penalty than the standard penalties outlined in WAC 314-12-300, 314-12-310, or 314-12-320. Penalties may range as follows:

- (1) A mitigated penalty would be when there are mitigating circumstances that the board determines merits a lesser number of days suspension or a lower monetary option.
- (2) A standard penalty would be one indicated in WAC 314-12-170.
- (3) An aggravated penalty would be one based on aggravating circumstances that is either:
 - (a) A higher number of days suspension or a higher monetary penalty than the standard penalty; or
 - (b) Cancellation of the license.

NEW SECTION

WAC 314-12-340 What are some examples of mitigating and aggravating circumstances? (1) Mitigating factors may include having in place business policies and practices such as:

- (a) Accepting only identification authorized by statute for persons of questionable age;
 - (b) Utilizing licensee certification cards that are correctly filled out and filed;
 - (c) Having direct on site supervision of employees;
 - (d) Having a signed acknowledgment from each employee of the business alcohol policy on file;
 - (e) Have an employee training plan that includes annual training on liquor laws;
 - (f) Showing cooperation with local law enforcement, etc.
- (2) Aggravating circumstances may include practices that show the licensee or their employees:
- (a) Fail to cooperate with local law enforcement or board staff;
 - (b) Do not call for local law enforcement when requested by customers or board agents;
 - (c) Do not check employees to insure employees are of legal age or have appropriate work permits;
 - (d) Committed the violation willfully, etc.

WSR 99-03-033
PERMANENT RULES
LIQUOR CONTROL BOARD
 [Filed January 13, 1999, 1:21 p.m.]

Date of Adoption: November 18, 1998.

Purpose: The following rules outline the penalties for Class 12 or 13 Mandatory alcohol server training permit holders who violate the liquor laws: WAC 314-16-160 What are the penalties if a permit holder violates the liquor laws?; 314-16-165 Can the board impose sanctions or penalties other than those indicated in WAC 314-16-160?; and 314-16-170 If my Class twelve (12) or Class thirteen (13) permit is suspended, can I still work?

Citation of Existing Rules Affected by this Order: Amending WAC 314-14-160.

Statutory Authority for Adoption: RCW 66.08.030, 66.20.079, 66.20.340.

Adopted under notice filed as WSR 98-18-095 on September 2, 1998.

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 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, 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 2, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 11, 1999

Charles F. Brydon

Board Member

AMENDATORY SECTION (Amending WSR 96-03-074, filed 1/17/96, effective 2/17/96)

WAC 314-14-160 (~~Board may suspend permits.~~)
What are the penalties if a permit holder violates the liquor laws? (~~Notwithstanding any criminal actions taken, the board may issue administrative violation notices to any holder of a Class 12 or Class 13 permit for violation of Title 66 RCW or 314 WAC. Class 12 or Class 13 permits may be suspended or revoked following the operating procedures set forth in chapter 10-08 WAC. As allowed by the board, a monetary penalty may be imposed in lieu of a suspension.~~)
(1) Penalties within a three-year period will normally be as indicated below.

Violation Type	1st Violation	2nd Violation	3rd Violation	4th Violation
<u>AFTER HOURS: Service, removal, allowing, consumption</u>	<u>5 day permit suspension OR \$50 monetary option</u>	<u>10 day permit suspension OR \$100 monetary option</u>	<u>30 day permit suspension OR \$200 monetary option</u>	<u>revocation of permit monetary option</u>

<u>Violation Type</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>3rd Violation</u>	<u>4th Violation</u>
DISORDERLY CONDUCT: <u>Allowing patrons, by licensee or employee</u>	<u>5 day permit suspension OR \$50 monetary option</u>	<u>10 day permit suspension OR \$100 monetary option</u>	<u>30 day permit suspension OR \$200 monetary option</u>	<u>revocation of permit</u>
INTOXICATED PERSONS: <u>Sales to, service to, consumption by, possession by</u>	<u>5 day permit suspension OR \$50 monetary option</u>	<u>10 day permit suspension OR \$100 monetary option</u>	<u>30 day permit suspension OR \$200 monetary option</u>	<u>revocation of permit</u>
LEWD CONDUCT: <u>Allowing</u>	<u>5 day permit suspension OR \$50 monetary option</u>	<u>10 day permit suspension OR \$100 monetary option</u>	<u>30 day permit suspension OR \$200 monetary option</u>	<u>revocation of permit</u>
MISCELLANEOUS: <u>Violation of other retail liquor laws or rules</u>	<u>5 day permit suspension OR \$50 monetary option</u>	<u>10 day permit suspension OR \$100 monetary option</u>	<u>30 day permit suspension OR \$200 monetary option</u>	<u>revocation of permit</u>
MINORS: <u>Sales to</u>	<u>5 day permit suspension OR \$100 monetary option</u>	<u>10 day permit suspension OR \$200 monetary option</u>	<u>30 day permit suspension OR \$300 monetary option</u>	<u>revocation of permit</u>
MINORS: <u>Frequenting by</u>	<u>5 day permit suspension OR \$50 monetary option</u>	<u>10 day permit suspension OR \$100 monetary option</u>	<u>30 day permit suspension OR \$200 monetary option</u>	<u>revocation of permit</u>
MISREPRESENTATION OF FACT: <u>Obstructing an officer, failure to allow an inspection</u>	<u>5 day permit suspension OR \$50 monetary option</u>	<u>10 day permit suspension OR \$100 monetary option</u>	<u>30 day permit suspension OR \$200 monetary option</u>	<u>revocation of permit</u>
*OTHER VIOLATION OF LAWS: <u>Conviction of liquor laws, DUI or felony</u>	<u>5 day permit suspension OR \$50 monetary option</u>	<u>revocation of permit</u>		
PERMIT: <u>Failure to produce permit and ID upon request</u>	<u>5 day permit suspension OR \$50 monetary option</u>	<u>10 day permit suspension OR \$100 monetary option</u>	<u>30 day permit suspension OR \$200 monetary option</u>	<u>revocation of permit</u>
PRIVATE CLUBS: <u>Prohibitions involving club liquor and use by the general public</u>	<u>5 day permit suspension OR \$50 monetary option</u>	<u>10 day permit suspension OR \$100 monetary option</u>	<u>30 day permit suspension OR \$200 monetary option</u>	<u>revocation of permit</u>

PERMANENT

NEW SECTION

WAC 314-14-165 Can the board impose sanctions or penalties other than those indicated in WAC 314-14-160? The board has broad discretionary authority. Based on aggravating or mitigating circumstances, the board may impose a different penalty than the standard penalties outlined in WAC 314-14-160.

NEW SECTION

WAC 314-14-170 If my Class twelve (12) or Class thirteen (13) Permit is suspended, can I still work? (1) During a suspension period, a permit holder may work on a liquor licensed premises provided they are not involved in any way in the sales or service of alcohol.

(2) No permit is required to be a cashier, receptionist, cook or janitor.

WSR 99-03-041
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Adult Services Administration)
 [Filed January 14, 1999, 3:45 p.m.]

Date of Adoption: January 14, 1999.

Purpose: To modify the language of "in-home provider," and distinguish individual providers and home care agency providers separately. Modify language describing abuse, neglect, exploitation, or abandonment to make it clearer, and remove the word "financial." Include "designee" as a person who can obtain Social Security card information and complete criminal conviction background inquiries.

Citation of Existing Rules Affected by this Order: Amending WAC 388-15-196, 388-15-19600, 388-15-19610, 388-15-19620, 388-15-19630, 388-15-19640, 388-15-19650, 388-15-19660, 388-15-19670, and 388-15-19680.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 43.43.842, 74.39A.050.

Adopted under notice filed as WSR 98-22-102 on November 4, 1998.

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 9, 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 11, 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 11, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 14, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-18-037, filed 8/27/98, effective 9/27/98)

WAC 388-15-196 ~~((In-))~~ **Individual providers and home care agency providers.** The intent of WAC 388-15-196 through 388-15-19680 is to describe the:

(1) Qualifications of an individual provider (IP), defined in WAC 388-15-202 (25) and (26);

(2) Qualifications of ~~((an in-home provider employed by))~~ a home care agency provider, defined in WAC 388-15-202(2);

(3) Conditions under which the department will pay an ~~((in-home))~~ individual provider; and

(4) Conditions under which the department may deny a contract to an individual provider or terminate payment to an ~~((in-home))~~ individual provider or a home care agency provider.

AMENDATORY SECTION (Amending WSR 98-18-037, filed 8/27/98, effective 9/27/98)

WAC 388-15-19600 **How do I apply to be an ~~((in-home))~~ individual provider of an adult client?** A person who wants to be an ~~((in-home))~~ individual provider must ~~((~~ ~~))~~ contact the client's social worker or case manager ~~((~~ ~~or~~ ~~))~~.

~~((2) Be employed by a home care agency)).~~

AMENDATORY SECTION (Amending WSR 98-18-037, filed 8/27/98, effective 9/27/98)

WAC 388-15-19610 **What requirements must an adult client's ~~((in-home))~~ individual provider or a home care agency provider meet?** An ~~((in-home))~~ individual provider or a home care agency provider of an adult must:

(1) Meet the requirements of chapter 246-336 WAC, if employed by a home care agency;

(2) Meet the following requirements, if employed by the client as an individual provider:

(a) Be eighteen years of age or older;

(b) Not be the spouse of the client receiving services, unless the client is on the chore personal care program or the parent of a child age seventeen or younger;

(c) Have no conviction for a disqualifying crime, as listed in RCW 43.43.830 and 43.43.842;

(d) Have no findings of fact or conclusions of law or ~~((agreed))~~ orders ~~((related to))~~ of guilt for abuse, neglect, ~~((financial))~~ exploitation or abandonment of a minor or vulnerable adult, as defined in RCW 74.39A.050(8);

(e) Have not had a license or a contract for the care of children or vulnerable adults denied, suspended, or revoked, or terminated; for noncompliance with state and federal regulations;

(f) Have read and understand the client's service plan, translated or interpreted, as necessary, for the client and/or IP; and

(g) Provide the services, as outlined in the client's service plan within the scope of practice in WAC 388-15-203.

AMENDATORY SECTION (Amending 98-18-037, filed 8/27/98, effective 9/27/98)

WAC 388-15-19620 **How do I get paid as an individual provider?** In order to be paid by the department, an individual provider must:

(1) Be hired by a client/legal guardian;

(2) Provide the social worker ~~((or))~~ case manager/designee with a Social Security card and picture identification;

(3) Complete and submit to the social worker ~~((or))~~ case manager/designee the department's criminal conviction background inquiry application;

(4) Sign a home and community-based service provider contract/agreement to provide services to a COPES or Medicaid personal care client, or other department contract or agreement; and

(5) Meet the conditions in WAC 388-15-19610(2).

AMENDATORY SECTION (Amending WSR 98-18-037, filed 8/27/98, effective 9/27/98)

WAC 388-15-19630 **Under what conditions will the department deny payment to an ~~((in-home))~~ individual provider or a home care agency provider?** The department will deny payment when an ~~((in-home))~~ individual provider or a home care agency provider:

(1) Does not meet the conditions of the contract;

(2) Has been terminated by the department for cause;

(3) Does not successfully complete the training requirements within the time limits in WAC 388-15-19650 through 388-15-19680;

(4) Demonstrates an unwillingness or inability to provide care following mandatory training or other training provided by the client's social worker/case manager or through the nurse expertise service; or

(5) Does not meet the conditions as stated in WAC 388-15-19610 and 388-15-19620.

AMENDATORY SECTION (Amending WSR 98-18-037, filed 8/27/98, effective 9/27/98)

WAC 388-15-19640 Does the ~~((in-home))~~ **individual provider or the home care agency provider** have responsibilities in addition to the service plan? In addition to providing services as outlined on the client's service plan, the ~~((in-home))~~ **individual provider or the home care agency provider** must:

(1) Accommodate client's individual preferences and differences in providing care;

(2) Contact the client's representative and case manager when there are changes which affect the personal care and other tasks listed on the service plan;

(3) Observe the client for change(s) in health, and respond to emergencies;

(4) Notify the case manager immediately when the client enters a hospital, an adult family home, an adult residential care facility, an enhanced adult residential care facility, an assisted living facility, or a nursing facility; and

(5) Notify the case manager immediately if the client dies.

AMENDATORY SECTION (Amending WSR 98-18-037, filed 8/27/98, effective 9/27/98)

WAC 388-15-19650 What are the educational requirements for an ~~((in-home))~~ **individual provider or a home care agency provider**? To meet the educational requirements, an ~~((in-home))~~ **individual provider or a home care agency provider** must:

(1) Possess a certificate of successfully completing department-designated fundamentals of caregiving training within one hundred and twenty days after beginning employment;

(2) Complete a minimum of ten hours of continuing education credits each calendar year following the year in which the fundamentals of caregiving training is taken. One hour of completed instruction equals one hour of credit on topics that pertain to services provided in an in-home setting including, but not limited to:

- (a) Client's rights;
- (b) Personal care (such as transfers or skin care);
- (c) Dementia;
- (d) Mental illness;
- (e) Depression;
- (f) Medication assistance;
- (g) Communication skills;
- (h) Alternatives to restraints;
- (i) Activities for clients; and

(3) Provide the department with proof of completion of continuing education credits.

AMENDATORY SECTION (Amending WSR 98-18-037, filed 8/27/98, effective 9/27/98)

WAC 388-15-19660 Do all ~~((in-home))~~ **individual providers or home care agency providers** have to take the fundamentals of caregiving training? An IP or a home care

agency provider can do the following instead of taking the fundamentals of caregiving:

(1) Pass the department's challenge test for the required class. This test can be taken once only. An IP contacts the AAA designated trainer to request the test; or

(2) Complete the department designated modified fundamentals of caregiving training and be a:

(a) Registered or licensed practical nurse;

(b) Physical or occupational therapist;

(c) Certified nursing assistant; or

(d) Medicare-certified home health aide; or

(3) Complete the division of developmental disabilities' (DDD) staff training required by chapter 275-26 WAC and continue to work for a DDD-contracted agency.

AMENDATORY SECTION (Amending WSR 98-18-037, filed 8/27/98, effective 9/27/98)

WAC 388-15-19670 Are there special rules about training for parents who are the ~~((in-home))~~ **individual providers of division of developmental disabilities (DDD) adult children**? Natural, step, or adoptive parents of adult DDD children:

(1) Must possess a certificate of successfully completing a six-hour DDD-approved training or a specially designed department-approved training within one hundred eighty days after beginning employment;

(2) Are exempt from continuing education requirements; and

(3) Are exempt from the fundamentals of caregiving training if they provide care only for their own adult DDD child.

AMENDATORY SECTION (Amending WSR 98-18-037, filed 8/27/98, effective 9/27/98)

WAC 388-15-19680 Are there special rules about training for parents who are the ~~((in-home))~~ **individual providers of non-DDD adult children**? Natural, step, or adoptive parents of adult non-DDD children must:

(1) Possess a certificate of successfully completing the fundamentals of caregiving training within one hundred eighty days after beginning employment; or

(2) Pass the department's challenge test; and

(3) Complete and provide proof of ten hours of continuing education credits as required under WAC 388-15-19650 (2) and (3).

WSR 99-03-042

PERMANENT RULES

DEPARTMENT OF LICENSING

(Real Estate Commission)

[Filed January 14, 1999, 3:59 p.m.]

Date of Adoption: January 6, 1999.

Purpose: Most of these rule changes are as a result of a regulatory improvement initiative brought in compliance with the Governor's Executive Order 97-02. Also, increases

in fees are needed to cover the operating costs associated with the real estate program. The fee changes will not go into effect until July 1, 1999.

Citation of Existing Rules Affected by this Order: Amend title of chapter 308-124 WAC, the new name will be gender neutral.

Amend WAC 308-124-007 Meetings, the proposed changes will provide more information regarding the commission's schedule of annual regular meetings.

Amend WAC 308-124-021 Definitions, the proposed changes to this section are to make it easier to read. The definition of incorporated associated broker is eliminated, and the payment of commissions to incorporated licensees is addressed in new proposed rule WAC 308-124D-080.

Repeal WAC 308-124-001 Promulgation—Authority and 308-124-005 Organization, these sections are duplicative of statutory language.

Amend WAC 308-124A-200 Corporate or copartnership applicants for licenses—Proof required, the proposed changes eliminate the credit reference requirement in light of changing business practices in the profession.

Amend WAC 308-124A-460 Real estate brokers and salespersons and land development representative fees, the proposed changes will increase fees within I-601 and help the department meet its operating costs and expenses.

Amend WAC 308-124B-140 Multiple business usage of office, the proposed changes are a reflection of changing business practices in the profession.

Amend WAC 308-124B-150 Office requirement for brokers actively licensed in another jurisdiction, the proposed changes clarify out-of-state licensees' requirements for maintaining the location of trust accounts.

Amend WAC 308-124C-010 Licensee's responsibilities, the proposed changes will require the licensee to keep the department informed of changes in mailing address rather than changes in home address.

Amend WAC 308-124D-061 Broker supervision of affiliated licensees, this clarifies the standards for broker supervision.

New WAC 308-124D-070 Discriminatory acts—Prohibition, this moves a former WAC section into this chapter, allowing the department to eliminate chapter 308-124F WAC.

New WAC 308-124D-080 Payment of earned commissions, this section is proposed in light of changing practices in the profession.

Repeal WAC 308-124F-010 Real estate office in same building as residence requirements, this section is a proposed repealer because the requirement is no longer relevant in light of changing business practices in the profession.

Repeal WAC 308-124F-020 Discriminatory acts—Prohibition, this section has been moved and proposed as new section WAC 308-124D-070. Moving this section out of chapter 308-124F WAC allows the department to eliminate a WAC chapter.

Repeal WAC 308-124F-030 Misuse of broker's license—Prohibited, this section has been moved and proposed in new section WAC 308-124D-061. The repeal of chapter 308-124F WAC allows the department to eliminate the chapter.

Statutory Authority for Adoption: RCW 18.85.040 and the Governor's Executive Order on Regulatory Improvement 97-02.

Adopted under notice filed as WSR 98-22-003 on October 22, 1998; and WSR 98-24-079 on December 1, 1998.

Changes Other than Editing from Proposed to Adopted Version: Added "wholly" before "owned" in WAC 308-124D-080. Fee increase changes in WAC 308-124A-460 are not as high as proposed because of new fiscal growth factor calculations for 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 9, Repealed 5.

Number of Sections Adopted Using Negotiated Rule Making: New 2, Amended 10, Repealed 5; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing for all except rule related to fees. WAC 308-124A-460 effective July 1, 1999.

January 12, 1999

Fred Stephens
Director

Chapter 308-124 WAC

REAL ESTATE BROKERS AND ((SALESMEN)) SALESPERSONS—GENERAL PROVISIONS

AMENDATORY SECTION (Amending WSR 90-23-039, filed 11/15/90, effective 12/16/90)

WAC 308-124-007 Meetings. The real estate commission meets quarterly, March, June, September and December or at the call of the director. Individuals desiring to be informed as to date, time, place and agenda of the meeting must make a written request to the real estate program. Annual notice of the commission's yearly schedule will be published by the code reviser at the beginning of each new year.

AMENDATORY SECTION (Amending WSR 98-01-107, filed 12/17/97, effective 1/17/98)

WAC 308-124-021 Definitions. ((+)) Words and terms used in these rules shall have the same meaning as each has under chapter 18.85 RCW unless otherwise clearly provided in these rules, or the context in which they are used in

these rules clearly indicates that they be given some other meaning.

~~((2))~~ (1) "Designated broker" is the natural person designated by a corporation, limited liability company, limited liability partnership or partnership to act as a broker on behalf of the corporation, limited liability company, limited liability partnership or partnership. The designated broker must be an officer of the corporation, manager or member of the limited liability company, partner of the limited liability partnership or a general partner of the partnership and must be separately qualified for licensure as a real estate broker.

~~((3))~~ (2) "Principal owner" is a person who owns or controls, directly or indirectly, ten percent or more of a real estate brokerage, regardless of whether such interest stands in the person's true name or in the name of a nominee.

~~((4))~~ (3) "Individual broker" is the natural person who owns a sole proprietorship brokerage company and is the licensed broker of the firm.

~~((5))~~ "Incorporated associate broker" is the natural person qualified as a broker who works with a broker and who is licensed as a corporation and whose license states that he or she is associated with a broker.

~~((6))~~ (4) "Affiliated licensees" are the natural persons licensed as salespersons, associate brokers, ~~((incorporated associate brokers,))~~ and/or branch managers employed by a real estate broker and who are licensed to represent a broker in the performance of any of the acts specified in chapter 18.85 RCW.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 308-124-001 Promulgation—Authority.
- WAC 308-124-005 Organization.

AMENDATORY SECTION (Amending WSR 98-01-107, filed 12/17/97, effective 1/17/98)

WAC 308-124A-200 Corporate or copartnership applicants for licenses—Proof required. The minimum qualifications for a corporation, limited liability company, limited liability partnership or partnership to receive a broker's license are:

(1) An officer in the corporation, a manager or member in the limited liability company, a partner in the limited liability partnership or a general partner in the partnership, as the case may be, shall be designated as the broker and shall separately qualify for a valid broker's license. The corporation, limited liability company, limited liability partnership or partnership and the designated broker are required to pay only a single license and license renewal fee.

(2) ~~((The applicant shall furnish a character and credit rating of the designated broker, officers, managers or members and principal owners of the corporation or limited liability company directly involved in the company's Washington real estate activity and, in the case of a partnership or limited liability partnership, the general partners and all principal owners. A new credit rating is not required if one has been~~

~~filed with the department within the preceding eighteen months.~~

~~(3))~~ If the applicant is a partnership or limited liability partnership, it shall furnish a copy of its partnership or limited liability partnership agreement.

~~((4))~~ (3) Licenses issued to corporations, limited liability companies, limited liability partnerships and partnerships expire two years from the date of issuance which date will be the renewal date.

~~((5))~~ ~~If a corporation applies for licensure as an incorporated associate broker, the associate broker shall be the sole licensee of the corporation. The renewal period for the incorporated associated broker shall be the same as the renewal period for corporations, limited liability companies, limited liability partnerships or partnerships under this chapter.)~~

AMENDATORY SECTION (Amending WSR 93-24-096, filed 11/30/93, effective 1/1/94)

WAC 308-124A-460 Real estate brokers and salespersons and land development representative fees. These fees are applicable to all original licenses, examination services, and fee generating services issued or performed after June 30, 1999, and all renewals for existing licenses with expiration date after June 30, 1999. The following fees for a two-year period shall be charged by professional licensing services of the department of licensing:

Title of Fee	Fee
Real estate broker:	
Application/examination	((\$130.00)) <u>\$138.25</u>
Reexamination	((130.00)) <u>138.25</u>
Original license	((160.00)) <u>170.00</u>
License renewal	((160.00)) <u>170.00</u>
Late renewal with penalty	((185.00)) <u>196.50</u>
Duplicate license	((25.00)) <u>26.50</u>
Certification	((25.00)) <u>26.50</u>
Name or address change, transfer or license activation	((25.00)) <u>26.50</u>
Real estate broker - Branch office:	
Original license	((\$150.00)) <u>\$159.50</u>
License renewal	((150.00)) <u>159.50</u>
Late renewal with penalty	((175.00)) <u>186.00</u>

PERMANENT

Title of Fee	Fee
Duplicate license	((25.00)) 26.50
Name or address change	((25.00)) 26.50
Real estate salesperson:	
Application/examination	((130.00)) \$138.25
Reexamination	((130.00)) 138.25
Original license	((100.00)) 106.25
License renewal	((100.00)) 106.25
Late renewal with penalty	((125.00)) 132.75
Duplicate license	((25.00)) 26.50
Certification	((25.00)) 26.50
Name or address change, transfer or license activation	((25.00)) 26.50

The following fee shall be charged annually for land development representatives:

Land development representative:	
Registration	((25.00)) 26.50

AMENDATORY SECTION (Amending Order 130, filed 8/13/82)

WAC 308-124B-140 Multiple business usage of office. ~~((1))~~ A broker may conduct a real estate brokerage business at an office location where the broker concurrently conducts a separate, ~~((compatible))~~ business activity. The brokerage business activities shall be carried out and business records shall be maintained separate and apart from any other business activities by the broker.

~~((2) Two or more licensed real estate brokerage businesses may be conducted at an office location with a common entrance and mailing address, if each business is clearly identified by a sign visible to the public, each business is physically separated within the office facility, and no deception of the public as to the separate identities of the brokerage business firms results.))~~

NEW SECTION

WAC 308-124B-145 Two or more real estate businesses in same location. Two or more licensed real estate brokerage businesses may be conducted at an office location with a common entrance and mailing address, if each business is clearly identified by a sign visible to the public, each

business is physically separated within the office facility, and no deception of the public as to the separate identities of the brokerage business firms results.

AMENDATORY SECTION (Amending Order PM 711, filed 3/1/88)

WAC 308-124B-150 Office requirement for brokers actively licensed in another jurisdiction. The term "office" in RCW 18.85.180 for a broker actively licensed in another jurisdiction in which the broker's headquarter office is located shall mean the ~~((maintenance of trust account and transaction records for a period of three years in the state of Washington in one location at the Washington office of an escrow agent licensed in the state of Washington, a real estate broker licensed in the state of Washington, attorneys at law licensed to practice in the state of Washington or title companies for all Washington transactions for the broker))~~ Washington location where trust account and transaction records are maintained. Such records are required to be maintained for three years. The trust account and transaction records shall be open and accessible to representatives of the department of licensing. The parties to the transaction shall have access to the transaction records prepared or retained for the requesting party.

A broker actively licensed in another jurisdiction seeking licensure in Washington, whose headquarter office is located in that other jurisdiction, shall notify the department of the location address where the records are maintained in the state of Washington and shall include this address with the headquarter's address on the license application.

The Washington license shall be posted at the location where the records are being maintained.

Within thirty days after mailing of the notice of audit, the broker shall come to the department's office, after making an appointment, in the geographic location (Spokane, Seattle, or Olympia) nearest to the location of the records to sign the audit report.

AMENDATORY SECTION (Amending WSR 90-23-039, filed 11/15/90, effective 12/16/90)

WAC 308-124C-010 Licensee's responsibilities. (1) The real estate broker shall be responsible for the custody, safety and correctness of entries of all required real estate records. The broker retains this responsibility even though another person or persons may be assigned by the broker the duties of preparation, custody or recording.

(2) It is the responsibility of each and every licensee to obtain a copy of and be knowledgeable of and keep current with the rules implementing chapter 18.85 RCW.

(3) It is the responsibility of each and every licensee to keep the director informed of his or her current ~~((home))~~ mailing address.

(4) It is the broker's responsibility to ensure accessibility of their offices and records to auditors of the department. The broker shall provide copies of required records upon demand by the director or the director's authorized representative.

PERMANENT

AMENDATORY SECTION (Amending WSR 98-01-107, filed 12/17/97, effective 1/17/98)

WAC 308-124D-061 Broker supervision of affiliated licensees. (1) A broker shall not permit the use of his or her license, whether for compensation or not, to enable anyone either licensed or unlicensed to in fact establish and carry on a brokerage business wherein the broker does not have full management responsibility for all real estate brokerage activities of the business or he/she does not exercise adequate supervision over the activities of his or her licensed salespersons, associate brokers or branch managers as required by chapter 18.85 RCW.

(2) Individual and designated brokers shall be responsible for supervising the conduct of all associate brokers and salespersons licensed to them, whether in an individual capacity or through a corporate, limited liability company, limited liability partnership or partnership entity. A broker shall not be held responsible for inadequate supervision if:

(a) An associate broker or salesperson violates a provision of chapter 18.85 RCW, or the rules promulgated thereunder, in contravention of the supervising broker's specific written policies or instructions;

(b) Reasonable procedures had been established to verify that adequate supervision was being performed;

(c) Upon learning of the violation, the broker attempted to prevent or mitigate the damage;

(d) The broker did not participate in the violation;

(e) The broker did not ratify the violation; and

(f) The broker did not attempt to avoid learning of the violation.

~~((2))~~ (3) A broker may not avoid his or her management or supervisory responsibilities by any contract, agreement or understanding between the broker and any other person. The existence of an independent contractor relationship or any other special compensation arrangement between the broker and affiliated licensees shall not release the broker and licensee of any duties, obligations, or responsibilities.

NEW SECTION

WAC 308-124D-070 Discriminatory acts—Prohibition. (1) Real estate licensees shall not:

(a) Refuse to communicate to the owner of a listed property any written offer, concerning the same, made by any person or persons because of race, color, creed, sex, marital status, familial status, age, national origin, or the presence of any sensory, mental, or physical handicap.

(b) Refuse to negotiate for the sale or rental of, or otherwise make available or deny, real property to any person because of race, color, creed, sex, marital status, familial status, age, national origin, or the presence of any sensory, mental, or physical handicap.

(c) Discriminate against any person in the terms, conditions, privileges of sale or rental of real property, or in the provision of services or facilities in connection therewith, because of race, color, creed, sex, marital status, familial status, age, national origin, or the presence of any sensory, metal, or physical handicap.

(d) Make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of real property that indicates any preference, limitation or discrimination based on race, color, creed, sex, marital status, familial status, age, national origin, or the presence of any sensory, mental, or physical handicap, or an intention to make any such preference, limitation or discrimination.

(e) Represent to any person because of race, color, creed, sex, marital status, familial status, age, national origin, or the presence of any sensory, mental, or physical handicap that any real property is not available for inspection, sale or rental when such real property is in fact available.

(f) Induce or attempt to induce any person to sell or rent any real property by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, creed, sex, marital status, familial status, age, national origin, or the presence of any sensory, mental, or physical handicap.

(2) Nothing in this regulation shall be construed to define or restrict the power of any other federal, state or local government agency to pursue such measures as such agency may deem appropriate to ensure that the opportunity to purchase, rent or lease real property is made available to all persons without regard to race, color, creed, sex, marital status, familial status, age, national origin, or the presence of any sensory, mental, or physical handicap.

NEW SECTION

WAC 308-124D-080 Payment of earned commissions. A broker is permitted to disburse by check earned commissions from the real estate broker's business bank account to any legal, authorized business entity wholly owned by his or her affiliated licensees.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 308-124F-010	Real estate office in same building as residence requirements.
WAC 308-124F-020	Discriminatory acts—Prohibition.
WAC 308-124F-030	Misuse of broker's license—Prohibited.

WSR 99-03-043

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed January 14, 1999, 4:56 p.m.]

Date of Adoption: January 13, 1999.

Purpose: To combine two grant programs that are authorized by legislature into one grant program. These programs provide financial and technical assistance to health care facil-

PERMANENT

ities and recruitment and retention efforts of providers in rural and urban underserved areas.

Citation of Existing Rules Affected by this Order: Amending chapter 246-560 WAC.

Statutory Authority for Adoption: RCW 70.175.010 - [70.175.]090 and 70.185.030 - [70.185.]080.

Adopted under notice filed as WSR 98-24-107 on December 2, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 9, Amended 5, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 9, Amended 5, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 9, Amended 5, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

January 13, 1999

Kris Van Gorkom

Deputy Secretary

AMENDATORY SECTION (Amending Order 186, filed 8/7/91, effective 9/7/91)

WAC 246-560-001 Purpose. (1) The purpose of these rules is to implement RCW 70.175.010 (~~(, 70.175.020, 70.175.030, 70.175.040, 70.175.050, 70.175.060, 70.175.070, 70.175.080, and)~~ through 70.175.090, and RCW 70.185.030 through 70.185.080. The Washington (~~rural~~) health systems (~~project~~) resources program includes rural health systems development and community-based recruitment and retention. The health systems resources program was established to provide financial and technical assistance to promote affordable access to health care services in rural (~~areas~~) and urban underserved populations of the state.

(2) The goals of the (~~rural~~) health systems (~~project~~) resources program are:

(a) (~~To encourage innovative or established community-based approaches to improving rural health care delivery systems that may serve as models for other communities.~~) To promote affordable access to health care services to residents in rural areas of Washington state.

(b) (~~To help rural communities obtain needed technical assistance for local activities designed to:~~

(i) ~~Identify a reasonable service delivery area in terms of geographic conditions, health care delivery patterns, and population characteristics;~~

(ii) ~~Identify desired health outcomes and improvements in the health care system;~~

(iii) ~~Identify and analyze deficiencies in the community's health care system;~~

(iv) ~~Identify innovative steps the community may need to correct the deficiencies; and~~

(v) ~~Initiate planned and positive actions to correct problems and make health care system improvements.~~

(e) ~~To explore the use of outcome targets related to health status for rural health system development.~~

(d) ~~To encourage the use of planning principles in the rural community health system decision making processes including:~~

(i) ~~Community decisions regarding expected health outcomes and health care services produced;~~

(ii) ~~Development of action plans; and~~

(iii) ~~The regular, periodic updating of objectives.~~

(e) ~~To identify public and private resources for:~~

(i) ~~Providing technical assistance to rural communities; and~~

(ii) ~~Facilitating community access to appropriate resources.)~~ To assure the availability of health care providers to:

(i) Residents of rural areas; and

(ii) Urban underserved populations.

NEW SECTION

WAC 246-560-002 Implementation. The department may use the following methods to implement this chapter:

(1) Solicit and select projects as described in WAC 246-560-035 through 246-560-081.

(2) Offer, or contract for, services to carry out the purposes of this chapter.

AMENDATORY SECTION (Amending Order 186, filed 8/7/91, effective 9/7/91)

WAC 246-560-010 Definitions. For the purpose of this chapter the following words and phrases have the following meanings unless the context clearly indicates otherwise.

(1) (~~"Advisory committee" means the rural health advisory committee or its successor, appointed by the secretary under RCW 70.175.030(3).~~

(2)) "Applicant" means any (~~eligible entity~~) interested party who has (~~submitted~~) been invited to submit an application proposing a (~~rural~~) health systems (~~demonstration~~) resources project.

(~~3~~) (2) "Application" means (~~a~~) an invited proposal for a (~~rural~~) health systems (~~demonstration~~) resources project.

(~~4~~) "Assisted demonstration project" means a non-funded application selected to receive specific technical assistance provided or supported by the department.

(5)) (3) "Basic health care services" means organized care modalities to prevent death, disability, and serious illness. The term includes, but is not limited to:

(a) Emergency services;

(b) Primary care physicians, physician assistants, nurse practitioners, and midwifery services;

(c) Short term inpatient care;

(d) Home health care;

(e) Community based care for chronic conditions;

(f) Dental care;

- (g) Vision care;
- (h) Hearing care;
- (i) Hospice care;
- (j) Mental health;
- (k) Necessary support services; and
- (l) Nutrition related services(, and

~~(m) Other "basic health services" specified and described in "A Report to the Legislature on Rural Health Care in the State of Washington" written by the Washington rural health care commission, January 1989).~~

~~((6))~~ (4) "Catchment area" means the Washington state geographic area where people ((who are likely to use the service live or are temporarily located)) live who are to receive the basic health care services addressed by the project.

~~((7))~~ (5) "Community" means the resident individuals and organizations in a catchment area who may benefit from the basic health care services ((included in a demonstration)) addressed by the project.

~~((8))~~ (6) "Community-based" means that the need is identified by a broad section of the community including providers, institutions in the area, and nonhealth care provider members of the community such as community members of health care boards, economic development council members, organized patient advocacy groups, and others who have an interest in the long-term viability of health care services in the catchment area.

(7) "Department" means the Washington state department of health.

~~((9))~~ "Demonstration project" means an application selected to participate in the project, including both funded and assisted demonstration projects.

(10) "Eligible entity" means any for-profit, not for-profit, or governmental entity which is:

(a) Located in a rural catchment area;

(b) Acting on behalf of the population in a rural catchment area; or

(c) Acting on behalf of the population living in a catchment area, a significant portion of which is rural, and in which the target population is more than thirty minutes average travel time from the primary source of health care.

(11) "Financially vulnerable" means a health care facility falling below a reasonable level of performance.

(a) For hospitals the department uses the *Financial Viability Index* and/or the *Financial Flexibility Index* to measure performance.

(b) For health care facilities other than hospitals the department considers:

(i) Financial viability or the overall financial performance of the facility; and/or

(ii) Financial flexibility or the ability of the facility to obtain financing to meet its needs, however unexpected.

(12) "Funded demonstration project" means an application selected by the department to receive funds to support planning, organizing, and implementing activities.

~~((13))~~ (8) "Deliverable" means a document that results from project activities. The term includes, but is not limited to:

(a) A form;

(b) An agreement;

(c) A plan;

(d) Documentation of numbers served;

(e) A report; or

(f) Presentation material.

(9) "Health care delivery system" means services ~~((and)), personnel ((involved in providing health care to a population in a geographic area)), and how they are organized and financed.~~

~~((14))~~ "Health care facility" means any land, structure, system, machinery, equipment, or other real or personal property or appurtenances useful for or associated with delivery of inpatient or outpatient health care service or support for such care or any combination thereof which is operated or undertaken in connection with a hospital, rural health care facility, clinic, health maintenance organization, diagnostic or treatment center, extended care facility, or any facility providing or designed to provide therapeutic, convalescent, or preventive health care services.

(15) "Interested party" means any eligible entity interested in proposing a rural health system development project.

~~((16))~~ (10) "Interested party" means an eligible entity that has submitted a letter of interest for a health systems resources project.

(11) "Letter of interest" means a brief description of a ~~((proposal for a demonstration))~~ project as described in WAC 246-560-040.

~~((17))~~ (12) "Letter of invitation" means a letter inviting an interested party who has submitted a letter of interest to submit an application.

~~((18))~~ (13) "Local project administrator" means an individual or organization representing the applicant and authorized to enter into legal agreements on behalf of the applicant.

~~((19))~~ (14) "Matching funds" means fifty percent of the total budget for recruitment and retention activities must be from a source other than this program. Matching funds may be in-kind contributions.

(15) "Metropolitan statistical area" or "MSA" means ~~((a metropolitan statistical))~~ an urban area defined and described by the United States Department of Census, Bureau of the Census, ~~((Statistical Abstract of United States: 1988, 108th edition, Washington, D.C., United States Government Printing Office, and displayed for the state of Washington))~~ and printed in the State of Washington 1997 Data Book, Office of Financial Management, Olympia, Washington((, 1988, including)). The boundaries of all metropolitan statistical areas are county boundaries. The urban counties include:

(a) Benton;

(b) Clark;

(c) Franklin;

(d) Island;

~~((e))~~ (f) King;

~~((f))~~ (g) Kitsap;

~~((g))~~ (h) Pierce;

~~((h))~~ (i) Snohomish;

~~((i))~~ (j) Spokane;

~~((j))~~ (k) Thurston;

~~((k))~~ (l) Whatcom; and

~~((l))~~ (m) Yakima.

~~((20))~~ "Program" means the office of rural health, or its successor, within the Washington state department of health.

~~(24))~~ (16) "Outcome" means the anticipated result or impact of the project activities.

(17) "Project" means ~~((the Washington rural))~~ a health systems resources project ~~((as authorized under chapter 70-175 RCW)).~~

~~((22))~~ (18) "Rural" means a geographical area outside the boundaries of metropolitan statistical areas (MSA's) or an area within an MSA but more than thirty minutes average travel time from ~~((an area of at least ten thousand population))~~ a city or town or contiguous cities or towns with a population of ten thousand or more.

~~((23))~~ "Secretary" means the secretary of the department of health or his or her designee.

~~(24))~~ (19) "Successful applicant" means an applicant whose project has been selected ~~((as a demonstration project))~~ for contracting.

~~((25))~~ (20) "Urban underserved" means an area(s) within a MSA that ~~((are))~~ is thirty minutes average travel time or less from a city or town or contiguous cities or towns with a population of ten thousand or more, that has unmet health care needs.

(21) "Workplan" means a written document, usually in matrix form, that shows the detail of what is needed to complete a project. The activities, timeline, party responsible, budget, evaluation plan, and measurable outcome is shown for each deliverable.

NEW SECTION

WAC 246-560-011 Activities. (1) Health systems development activities include:

(a) The planning, development, and/or implementation of the infrastructure needed to support a cost effective health care delivery system. Examples of infrastructure development include:

- (i) Telemedicine and other communications systems;
- (ii) Modeling of managed care systems;
- (iii) Financial business systems;
- (iv) Clinical and quality assurance systems;
- (v) Development of cooperative agreements and referral arrangements between similar or dissimilar entities to ensure easy transition between care levels for patients and their families; and

(vi) Development of networks of providers and others, organized to share services, negotiate contracts and, plan new services or service delivery systems.

(b) The mobilization of community leaders to design, develop, and implement a project to maintain or improve the viability of the local health care delivery system. Examples of community mobilization include:

- (i) Leaders from different governmental jurisdictions evaluate the health care delivery system or parts of the system, determine where changes are needed, and develop a workplan to affect the necessary changes;
- (ii) Participants in the health care delivery system determine how to pool resources to eliminate service duplication or gaps, or, to focus on new identified priorities; and
- (iii) Participants in the health care delivery system determine how to restructure the system, including the necessary

legal, regulatory, fiscal, or practice actions that will accomplish the needed change.

(c) The planning, development, or implementation of a new basic health care service to meet an identified gap in the health care delivery system. Examples of new service development include:

- (i) A service previously unavailable in the service area; and
- (ii) A service previously unavailable to a portion of the population in the service area.

(2) Recruitment and retention activities may be funded, only to the extent that matching funds are provided. They include, but are not limited to:

- (a) An assessment of community characteristics or assets, including school systems, housing, churches, recreational, social and cultural opportunities;
- (b) An assessment of the community, physicians and other health care providers, community leaders and citizens about the need for new or replacement health care providers;
- (c) A staff development plan;
- (d) A recruitment plan;
- (e) A recruitment and retention financial plan;
- (f) A plan for providing a new practitioner with sufficient professional, intellectual and emotional support;
- (g) A plan for call coverage to ensure adequate time off for personal and family pursuits;
- (h) An assessment of office and hospital facilities, equipment and support personnel to determine if they are adequate to allow a new practitioner to practice in a high-quality manner; and
- (i) A retention plan.

NEW SECTION

WAC 246-560-025 Requests to receive information.

Any interested party may be placed on the health systems resources mailing list maintained by the Department of Health, Office of Community and Rural Health, or its successor, P.O. Box 7834, Olympia, WA 98504-7834. Contacts on the mailing list will receive instructions for the next funding cycle.

NEW SECTION

WAC 246-560-035 Eligibility. (1) An interested party, may be a for-profit, not-for-profit, or governmental entity which is:

- (a) Proposing services benefiting the population in a rural catchment area; and/or
 - (b) Proposing services benefiting an urban underserved area and including recruitment and retention activities.
- (2) The majority of basic health services addressed by the project must be provided to people living in Washington state.

AMENDATORY SECTION (Amending Order 186, filed 8/7/91, effective 9/7/91)

WAC 246-560-040 Letters of interest. ~~(((1) Any interested party proposing a demonstration project shall submit a~~

~~letter of interest. The letter shall follow the schedule in WAC 246-560-030 and:))~~ An interested party must submit a letter of interest to be considered for a health systems resources project. The department may solicit letters of interest.

The letter of interest must:

~~((a))~~ (1) Not exceed ~~(two)~~ three pages;

~~((b))~~ (2) Include the applicant name and address;

(3) Briefly describe the catchment area and the community;

~~((c))~~ (4) Identify the health systems resources program goal(s) addressed by the project;

(5) Identify the health care problem;

~~((d))~~ (6) Briefly describe ~~((what will be done))~~ proposed activities and the anticipated outcome; ~~((and~~

~~((e))~~ (7) Identify key health care providers, business representatives, public officials, and community leaders to be involved in the project; and

(8) Indicate projected total project costs and the amount of state funding requested. If the project includes recruitment and retention activities, indicate the source or sources of matching funds.

~~((2))~~ The department may request combining activities proposed in separate letters of interest for inclusion in a single application to:

~~(a)~~ Avoid duplication;

~~(b)~~ Increase cooperation; or

~~(c)~~ Strengthen the overall health system serving the catchment area.

~~(3)~~ The department may request additional information to enable it to apply the letter of interest selection criteria in WAC 246-560-050:))

NEW SECTION

WAC 246-560-045 Letter of interest review and action. (1) Reviewers shall score letters of interest independently using a scoring system established by the department, which is incorporated by reference.

(2) Copies of the scoring system may be requested by writing to the Washington State Department of Health, Office of Community and Rural Health, P.O. Box 47834, Olympia, Washington 98504-7834.

(3) The director of the office of community and rural health shall make the final decision regarding letters of interest based on letter of interest scores and the best utilization of resources to promote the goals of the program.

(4) The department will send a written response to all interested parties who submit a letter of interest.

(5) The department may invite applications from some, none, or all of the interested parties who submit a letter of interest.

(a) The invitation will include:

(i) Application content outline;

(ii) Directions for completing applications; and

(iii) Any letter of interest review comments to be addressed in the application.

(b) The department may request combining activities proposed by different interested parties for inclusion in a single application to:

(i) Avoid duplication;

(ii) Increase cooperation; or

(iii) Strengthen the overall health care delivery system serving the catchment area.

(c) The department will set a due date for receipt of applications.

AMENDATORY SECTION (Amending Order 186, filed 8/7/91, effective 9/7/91)

WAC 246-560-050 ~~((Letter of interest selection considerations))~~ Criteria for inviting applications. ~~((The department shall consider the following factors to select interested parties to receive letters of invitation:~~

~~(1) The proposed demonstration project addresses the goals of the rural health system project specified under WAC 246-560-001;~~

~~(2) The proposed demonstration project is in an area where a financially vulnerable health care facility is present;~~

~~(3) The proposed demonstration project is in an area where a financially vulnerable health care facility is present and an adjoining community in the same catchment area has a competing facility;~~

~~(4) The proposed demonstration project addresses access to basic health care services in an area where access is severely limited;~~

~~(5) The proposed demonstration project addresses needed improvements in the delivery of basic health services, including preventive services;~~

~~(6) The proposed demonstration project contains well thought out approaches to problem solving likely to result in improvements persisting after the project period;~~

~~(7) The proposed demonstration project reflects a cooperative approach, which may involve several organizations, categories of health care providers, and communities;~~

~~(8) The proposed demonstration project is unique and serves as a model for other communities; and~~

~~(9) The extent to which the proposed demonstration project uses multiple funding sources:))~~ (1) The project addresses at least one of the goals of the health systems resources program, as described in WAC 246-560-001.

(2) The project addresses needed improvements in the delivery of basic health care services, including preventive services.

(3) The project reflects a cooperative approach, which may involve several organizations, categories of health care providers, or communities.

(4) The project can serve as a model for other communities.

(5) The project reflects priorities established for a particular funding cycle as set forth in the application materials.

(6) The project addresses access to basic health care services in an area where access is severely limited or inadequate; and

(7) If recruitment and retention of providers is identified as an outcome the application demonstrates:

(a) Recruitment and retention problems have been chronic; or

(b) The community is in need of primary care practitioners; or

- (c) The community has unmet health care needs for specific target populations; and
 (d) There is a fifty percent local funding match.

AMENDATORY SECTION (Amending Order 186, filed 8/7/91, effective 9/7/91)

WAC 246-560-060 ((Submission of) Application(s)) content. ((Applicants shall submit applications on the form provided by the department. The application shall, at a minimum, follow the time schedule in WAC 246-560-030 and:

- (1) Describe the problem including:
 (a) The duration of the problem or deficiency; and
 (b) The number of people affected;
 (2) Describe the catchment area. When the proposal involves a service or services not currently provided, the applicant shall demonstrate to the satisfaction of the department:
 (a) A reasonable service delivery area in the sense that geographic conditions, health care delivery patterns, other social and economic relationship patterns, and population characteristics make it a realistic market; and
 (b) A reasonable use area from the perspective of the residents, in the sense that residents are likely to go to the proposed delivery site as a preferred source for the proposed service.
 (3) Identify any special needs in the catchment area;
 (4) Explain how the proposal addresses the goals identified in WAC 246-560-001 or why this proposal should be approved as a demonstration project if the goals are not addressed;
 (5) Identify any model or models used in a proposed demonstration project;
 (6) Describe the relationship between the proposed demonstration project and any current or previous programs designed in whole or in part to solve related health care problems in the catchment area;
 (7) Identify key health care providers, business representatives, public officials, and community leaders involved in the project;
 (8) Identify project goals, specific objectives, and procedures to assure results from the project consistent with the letter of interest;
 (9) Specify the work program for achieving the objectives;
 (10) Explain how the demonstration project will coordinate and avoid unnecessary duplication of services and activities with existing health services, including public and private health care services in the catchment area;
 (11) Identify the potential and steps required to financially sustain the activities initiated as a result of the project;
 (12) Describe how the applicant will evaluate the demonstration project;
 (13) Describe the decision-making process or processes for determining appropriate courses of action throughout the demonstration project;
 (14) Provide the proposed budget for the project period indicating:
 (a) The amount of state funds requested;
 (b) The amount by source of other financial support; and

- (e) The schedule of payments requested from the state;
 (15) Identify whether the proposal may be considered for:
 (a) Designation as a funded demonstration project only;
 or
 (b) Identify the portions of the proposal to be considered as an assisted demonstration project;
 (16) Provide letters of support and commitment to participate from key providers, local government officials, and business and community leaders.
 (17) Discuss any issues raised by the department in the letter of invitation.)) (1) A completed face sheet.
- (2) A description of the applicant and its capacity to manage and oversee the project.
 (3) A description of the proposed project including:
 (a) Health systems resources program goal(s) addressed; and
 (b) Health systems resources program priority addressed.
 (4) A statement of the problem, including:
 (a) The duration of the problem or deficiency;
 (b) The number of people affected;
 (c) How the problem has been documented;
 (d) The community involvement in identifying the problem; and
 (e) Special needs of the population to be served.
 (5) A description of the catchment area(s) to be served by the project. The catchment area(s) must be a reasonable service delivery area such that:
 (a) Geographic conditions, health care delivery patterns, other social and economic relationship patterns, and population characteristics make it a reasonable market; or
 (b) Residents are likely to go to the proposed catchment area as a preferred source for the proposed services.
 (6) A description of any model(s) used in the proposed project.
 (7) A description of the relationship between the proposed project and current or previous programs designed to solve related health care problems in the catchment area.
 (8) A description of the other individuals and entities involved in the project and their relationship with the applicant to implement the project. A copy of an organizational chart for the proposed project, lists of roles and responsibilities, or other items that document the relationship between the applicant and the involved activities may be submitted with the application.
 (9) A workplan for what is needed to accomplish the project. For all major activities, include a timeline, entity responsible, funds needed and source of funds, and measurable outcome(s).
 (10) A description of the evaluation process including measurable outcomes.
 (11) A description of the plan for dissemination of information about the project.
 (12) A detailed budget and budget justification for the project period, including:
 (a) The amount of state funds requested;
 (b) The amount, by source, of other financial or in-kind support and evidence of cost participation by the applicant and other entities involved in the project; if the application

includes recruitment and retention activities, amounts by source(s) of matching funds must be identified;

(c) The steps required to financially sustain the project activities after state support had ended.

(13) Letters of agreement, support, commitment and contribution from each entity identified as participating in the project.

(14) Any additional information requested by the department in the letter of invitation.

NEW SECTION

WAC 246-560-065 Application screening criteria. (1) The department will screen applications for the following criteria:

(a) Received in the Office of Community and Rural Health, P.O. Box 47834, Olympia, Washington 98504-7834, on or before the due date.

(b) One original application and two unbound copies provided, sufficiently legible to be copied. The department will determine legibility; and

(c) Application contains each of the items described in WAC 246-560-060.

(2) Applications that contain all screening criteria will be reviewed.

(3) If an application fails to contain any screening criterion, it will not be reviewed. The applicant will be notified in writing.

NEW SECTION

WAC 246-560-075 Reviewer selection. The department may consider the input of individuals outside the department who have expertise with rural and underserved communities. Selected reviewers must sign a statement:

(1) Agreeing to refrain from discussion of letters of interest or applications outside of the review process; and

(2) Asserting that they do not have a conflict of interest. A conflict of interest includes a reviewer:

(a) Holding a position in an organization under review;

(b) Having a significant financial interest in the outcome of the review; or

(c) Participating in the development of the letter of interest or application under review.

NEW SECTION

WAC 246-560-077 Application review, selection, and funding. (1) The department may, based on reviewer recommendations, funding limitations, or other considerations, offer funding to all, some or none of the applicants, and may offer to fund portions of projects.

(2) Reviewers shall score applications independently using a scoring system established by the department which is incorporated by reference.

(3) Copies of the scoring system may be requested by writing to the Washington State Department of Health, Office of Community and Rural Health, P.O. Box 47834, Olympia, Washington 98504-7834.

(4) The director of the office of community and rural health shall make the final decision regarding funding based on application scores, total funds available, and the best utilization of resources to promote the goals of the program.

NEW SECTION

WAC 246-560-085 Appeal process. (1) The following departmental actions are subject to administrative appeal:

(a) A decision not to invite an application;

(b) A determination that an application does not meet initial screening criteria and will not be reviewed; or

(c) A decision not to fund all or any portion of a project.

(2) The appeal process is governed by the Administrative Procedure Act (chapter 34.05 RCW), chapter 246-10 WAC, and this chapter.

(3) To initiate an appeal, the applicant must file a written request for an adjudicative proceeding within twenty-eight days of receipt of the department's decision. The request shall be mailed, by a method showing proof of receipt, to the Adjudicative Clerk Office, P.O. Box 47879, 2413 Pacific Avenue, Olympia, Washington 98504-7879.

(4) The request must contain:

(a) A specific statement of the issue or issues and law involved;

(b) The grounds for contesting the department's decision; and

(c) A copy of the department's decision.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-560-070

Selection criteria for funded demonstration projects.

WSR 99-03-044

PERMANENT RULES

PERSONNEL RESOURCES BOARD

[Filed January 15, 1999, 8:23 a.m., effective March 1, 1999]

Date of Adoption: January 14, 1999.

Purpose: This modification is housekeeping in nature and is needed to reflect current automated reporting programs.

Citation of Existing Rules Affected by this Order: Amending WAC 356-26-110.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 98-22-035 on October 29, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: March 1, 1999.

January 14, 1999

Dennis Karras

Secretary

Adopted under notice filed as WSR 98-21-054 on October 19, 1998.

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.

Effective Date of Rule: Thirty-one days after filing.

January 13, 1999

Mabel Caine

Compliance Administrator

AMENDATORY SECTION (Amending Order 40, filed 12/10/71)

WAC 356-26-110 Certification—Actions required.

~~((Reports of actions taken on certified eligibles by the appointing authority shall be in writing to the director within ten working days following certification unless the director has specifically granted an extended time.))~~ The department of personnel shall be notified by the appointing authority of actions taken on certifications. The date of selection constitutes the closing of the referral; however, exceptions may be granted in unusual circumstances. Fair consideration must be given to all names certified.

The following actions are allowed and/or required:

- (1) Appropriate appointment of one of the names certified.
- (2) Request for additional names to replace names of eligibles who:
 - (a) Were considered, provided they were only from unranked registers.
 - (b) Waived consideration, which shall be confirmed by the director.
 - (c) Failed to reply within four days of notice to appear for consideration.
 - (d) Were not satisfactory for valid and pertinent reasons directly connected with the position as determined by the director from a written report by the appointing authority.

The preceding actions may be taken, provided the additional name or names do not cause the total number of names certified to exceed the number normally certified.

- (3) Request for cancellation of the certification in accordance with WAC 356-26-050.

WSR 99-03-046

PERMANENT RULES

SPOKANE COUNTY AIR

POLLUTION CONTROL AUTHORITY

[Filed January 15, 1999, 9:34 a.m.]

Date of Adoption: January 7, 1999.

Purpose: Adopt Resolution 98-16 amending the no burn area in Spokane County.

Statutory Authority for Adoption: Chapter 70.94 RCW.

A RESOLUTION AMENDING)	RESOLUTION 98-16
THE "NO-BURN AREA")	
)	(Amended)

WHEREAS, pursuant to the provisions of the Washington Clean Air Act, RCW 70.94, the Spokane County Air Pollution Control Authority (SCAPCA) was created as a municipal corporation of the State of Washington; and

WHEREAS, pursuant to the provisions of RCW 70.94, SCAPCA has the responsibility for implementing a limited burning program; and

WHEREAS, pursuant to the provisions of RCW 70.94.743, outdoor burning shall not be allowed in any area of the state where federal or state ambient air quality standards are exceeded for pollutants emitted by outdoor burning, and in urban growth areas as defined by RCW 36.70A.030; and

WHEREAS, on the 3rd day of December, 1998, the SCAPCA held a public hearing to consider altering the boundary of the "No-Burn Area"; and

WHEREAS, alternatives are available for handling and disposing of residential yard and garden debris; and

WHEREAS, the Board of Directors considered all verbal testimony submitted at the public hearing held on December 3, 1998, and written testimony submitted prior to December 3, 1998; and continued the hearing to January 7, 1999 for decision, only. The Board of Directors determined that the proposal, as modified, was reasonable;

NOW, THEREFORE, BE IT RESOLVED by the SCAPCA that the "No-Burn Area" be defined as described in Attachment A.

DATED THIS 7th day of January, 1999.

SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY

Mike Brewer

PERMANENT

John Roskelley - No
Kevin Ottosen

Attest:
Mabel Caine for
Eric Skelton, Director

ATTACHMENT A
SPOKANE COUNTY NO-BURN BOUNDARY

Beginning at a point on the E R/W of Hayford Road and the S R/W of State Road 2 which is located in S30 T25N R42E the No-Burn Area boundary proceeds northerly along the W section line of S19 T25N R42E to the N section line of S19 T25N R42E.

Thence E along the N section line of S19, 20, 21 T25N R42E and proceed E along Greenwood Road to the intersection of Greenwood Road and Grove Road.

Thence S ~1/4 mile on Grove Road to the intersection of Grove Road and Greenwood Road.

Thence easterly on Greenwood Road to the intersection of Greenwood Road and Rimrock Road.

Thence northerly on Rimrock Road to Houston Road.

Thence along the S R/W of Houston Road to the intersection of Houston Road and Government Way.

Thence easterly along the Spokane City Limits to the E section line of S10 T25N R42E.

Thence N along the E section line of S10 T25N R42E the E bank of the Spokane River.

Thence in a generally northwesterly direction along the E bank of the Spokane River to the S section line of S6 T26N R42E.

Thence in an easterly direction along the S and E R/W of Rutter Parkway and the E R/W of Waikiki Road to the S corner of S1 T26N R42E.

Thence E and N along the southerly and easterly boundaries of S1 T26N R42E to its NE corner.

Thence E along the S section line of S31 T27N R43E to the W R/W of State Highway 395.

Thence northerly along the W R/W of State Road 395 to the half section line of S19 T27N R43E.

Thence E along the half section line of S19, 20, 21 and 22 to the W R/W of State Road 2.

Thence S along the W R/W of State Road 2 to the S section line of S27 T27N R43E, Day-Mt. Spokane Road.

Thence E along the S R/W of Day-Mt Spokane Road to the W R/W of Bruce Road.

Thence S along the W R/W of Bruce Road to the S R/W of Mt. Spokane Park Drive.

Thence W along the S R/W of Mt. Spokane Park Drive and the S section line of S36 to the half section line of S35 T27N R43E.

Thence south along the half section line of S2 and 11 T26N R43E to the south R/W of Stoneman Road.

Thence westerly along the S R/W of Stoneman Road to the W R/W of Fairview Road.

Thence southerly and southwestly along the W R/W of Fairview Road to the N R/W of Regal Road.

Thence easterly and southerly along the N and E R/W of Regal Street and Freya Street to the NE R/W of the Power Transmission lines.

Thence S and E along the NE R/W of the Power Transmission line to the half section line of S26 T26N R43E.

Thence S along the half section line of S26 T26N R43E to the S section line of S26 T26N R43E.

Thence E along the S section line of S26 and 25 T26N R43E, S30, 29, 28, 27 and 26 T26N R44E.

Thence S along the W section line of S36 T26N R43E to the E/W half section line of S36 T26 R44E.

Thence E to the E section line of S36 T26N R44E.

Thence S along the E section line of S36 T26N R44E to Flora Road.

Thence S along the W R/W of Flora Road to the N R/W of State Road 290.

Thence easterly along the N R/W of State Road 290 to the Washington/Idaho state line and proceed S along the Washington/Idaho state line to the S bank of the Spokane River.

Thence generally SW along the S bank of the Spokane River to the E section line of S2 T25N R45E.

Thence S along the E section line of S2, 11, 14 T25N R45E.

Thence W along the S section line of S14 T25N R45E to Lakeside Road.

Thence S along Lakeside Road and Idaho Road to the quarter section line in the SE quarter, S25 T25N R45E.

Thence approximately 2 1/4 miles in a westerly direction to the half section line of S27 T25N R45E.

Thence northerly along the half section line of S27 and S22 of T25N R45E to the half section line of S22 T25N R45E.

Thence westerly along the half section line of S22, 21 T25N R45E to the intersection of 8th Avenue and Henry Road.

Thence S along Henry Road 1/4 mile to the quarter section line.

Thence W along the quarter section line of S20 T25N R45E to Barker Road.

Thence S along the E R/W of Barker Road to the S R/W of 32nd Avenue.

Thence westerly along the southern R/W of 32nd to Chapman Road and proceed S along the E R/W of Chapman Road to the E/W half section line of S1 T24N R44E.

Thence W along the half section line of S1, 2 and 3 T24N R44E to State Road 27.

Thence S along Highway 27 to the S boundary of S3 T24N R44E.

Thence W along the S boundary of S3, 4, 5 T24N R44E.

Thence N along the W section line of S5 T24N R44E to the NW corner of S5 T24N R44E.

Thence W along the S section line of S31 T25N R44E, S36 and 35 T25N R43E to the E R/W of Glenrose Road.

Thence S and W along the E and S R/W of Glenrose Road to the half section line of S2 T24N R43E.

Thence southerly along the half section line of S2 T24N R43E to the S line of that section.

Thence westerly along the S line of S2 T24N R43E to the W line of S2 T24N R43E.

Thence southerly along the E line of S10 T24N R43E to the half section line of that section.

Thence westerly along the half section line of S10, 9, 8, and 7 to the E R/W of Cedar Road.

Thence N along the E R/W of Cedar Road a distance of approximately 0.3 miles to the Spokane City Limits.

Thence W along the Spokane City Limits for a distance of approximately 0.35 miles.

Thence N continuing along the Spokane City Limits to the S section line of S1 T24N R42E.

Thence W along the S section line of S1, 2, 3, 4 T24N R42E to the intersection of Spotted Road and Hallet Road.

Thence S on Spotted Road to Melville Road and continuing westerly on Melville Road to Hayford Road.

Thence N on Hayford Road to the S section line of S12 T24N R41E.

Thence W along the S section line of S12 T24N R41E to the W section line of S12 T24N R41E.

Thence N along the W section line of S12, 1 T24N R41E.

Thence E along the N section line of S1 T24N R41E to the W section line of S36 T25N R41E.

Thence N along the W section line of S36 T25N R41E to McFarlane Road.

Thence E along McFarlane Road to Hayford Road.

Thence N along Hayford Road to the S R/W of State Road 2, which is also the point of beginning.

WSR 99-03-050
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
[Filed January 15, 1999, 3:52 p.m.]

Date of Adoption: January 15, 1999.

Purpose: To adopt new section WAC 460-24A-200 to make the rules relating to investment advisers uniform among states and to fill a gap in regulation of investment advisers which was created by the provisions of the National Securities Markets Improvement Act of 1996 that divided regulation of investment advisers between state and federal jurisdictions.

Statutory Authority for Adoption: RCW 21.20.450.

Other Authority: Section 2, chapter 15, Laws of 1998.

Adopted under notice filed as WSR 98-22-015 on October 23, 1998.

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 1, Amended 0, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: No rule may be made unless the director of the Department of Financial Institutions finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of chapter 21.20 RCW.

Effective Date of Rule: Thirty-one days after filing.

January 15, 1999

John L. Bley

Director

NEW SECTION

WAC 460-24A-110 Agency cross transactions. (a) For purposes of this rule, "agency cross transaction for an advisory client" means a transaction in which a person acts as an investment adviser in relation to a transaction in which the investment adviser, or any person controlling, controlled by, or under common control with such investment adviser, including an investment adviser representative, acts as a broker-dealer for both the advisory client and another person on the other side of the transaction. When acting in such capacity such person is required to be registered as a broker-dealer in this state unless excluded from the definition.

(b) An investment effecting an agency cross transaction for an advisory client shall be in compliance with 1998 Wash. Laws ch. 15, §2 if the following conditions are met:

(1) The advisory client executes a written consent prospectively authorizing the investment adviser to effect agency cross transactions for such client;

(2) Before obtaining such written consent from the client, the investment adviser makes full written disclosure to the client that, with respect to agency cross transactions, the investment adviser will act as broker-dealer for, receive commissions from and have a potentially conflicting division of loyalties and responsibilities regarding both parties to the transactions;

(3) At or before the completion of each agency cross transaction, the investment adviser or any other person relying on this rule sends the client a written confirmation. The written confirmation shall include (A) a statement of the nature of the transaction, (B) the date the transaction took place (C) an offer to furnish, upon request, the time when the transaction took place and (D) the source and amount of any other remuneration the investment adviser received or will receive in connection with the transaction. In the case of a purchase, if the investment adviser was not participating in a distribution, or, in the case of a sale, if the investment adviser was not participating in a tender offer, the written confirmation may state whether the investment adviser has been receiving or will receive any other remuneration and that the investment adviser will furnish the source and amount of such remuneration to the client upon the client's written request;

(4) At least annually, and with or as part of any written statement or summary of the account from the investment adviser, the investment adviser or any other person relying on this rule sends each client a written disclosure statement identifying (A) the total number of agency cross transactions during the period for the client since the date of the last such statement or summary and (B) the total amount of all commissions or other remuneration the investment adviser received or will receive in connection with agency cross transactions for the client during the period;

(5) Each written disclosure and confirmation required by this rule must include a conspicuous statement that the client may revoke the written consent required under subsection (b)(1) of this rule at any time by providing written notice to the investment adviser;

(6) No agency cross transaction may be effected in which the same investment adviser recommended the transaction to both any seller and any purchaser.

(c) Nothing in this rule shall be construed to relieve an investment adviser or investment adviser representative from acting in the best interest of the client, including fulfilling his duty with respect to the best price and execution for the particular transaction for the client nor shall it relieve any investment adviser or investment adviser representative of any other disclosure obligations imposed by the Securities Act of Washington, chapter 21.20 RCW, and the rules and regulations thereunder.

WSR 99-03-051
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
[Filed January 15, 1999, 3:54 p.m.]

Date of Adoption: January 15, 1999.

Purpose: To amend WAC 460-24A-220 to (1) make uniform the rules relating to state regulating investment advisers and federal covered investment advisers to the extent permitted by the National Securities Markets Improvement Act of 1996 and (2) fill a gap in regulation of investment advisers which was created by the provisions of NSMIA that divided regulation of investment advisers between state and federal jurisdictions.

Citation of Existing Rules Affected by this Order: Amending WAC 460-24A-220.

Statutory Authority for Adoption: RCW 21.20.450.

Other Authority: RCW 21.20.100.

Adopted under notice filed as WSR 98-22-016 on October 23, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: No rule may be made unless the director of the Department of Financial Institutions finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of chapter 21.20 RCW.

Effective Date of Rule: Thirty-one days after filing.

January 15, 1999

John L. Bley

Director

AMENDATORY SECTION [(Amending Order SDO-220-85, filed 11/19/85)]

WAC 460-24A-220 (~~(Dishonest or u)~~) **Unethical business practices—Investment advisers and ((investment adviser salespersons)) federal covered advisers.** (~~(The phrase "dishonest or unethical practices" as used in RCW 21.20.110(7) as applied to investment advisers and investment adviser salespersons is hereby defined to include any of the following:))~~ A person who is an investment adviser or a federal covered adviser is a fiduciary and has a duty to act primarily for the benefit of its clients. The provisions of this subsection apply to federal covered advisers to the extent that

the conduct alleged is fraudulent, deceptive, or as otherwise permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290). While the extent and nature of this duty varies according to the nature of the relationship between an investment adviser and its clients and the circumstances of each case, an investment adviser or a federal covered adviser shall not engage in unethical business practices, including the following:

(1) Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser.

(2) Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within ten (10) business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

(3) Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account ~~(-)~~ in light of the fact that an adviser in such situations can directly benefit from the number of securities transactions effected in a client's account. The rule appropriately forbids an excessive number of transaction orders to be induced by an adviser for a "customer's account."

(4) Placing an order to purchase or sell a security for the account of a client without authority to do so.

(5) Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party trading authorization from the client.

(6) Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of loaning funds.

(7) Loaning money to a client unless the investment adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser.

(8) To misrepresent to any advisory client, or prospective advisory client, the qualifications of the investment adviser or any employees of the investment adviser, or to misrepresent the nature of the advisory services being offered or fees to be charged for such service, or to omit to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading.

(9) Providing a report or recommendation to any advisory client prepared by someone other than the adviser without disclosing that fact. (This prohibition does not apply to a situation where the adviser uses published research reports or statistical analyses to render advice or where an adviser

orders such a report in the normal course of providing service.)

(10) Charging a client an unreasonable advisory fee ~~((in relation to fees charged by other investment advisers or investment adviser salespersons for similar services)).~~

(11) Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including ~~((but not limited to)):~~

(a) Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; and

(b) Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the adviser or its employees ~~((and~~

~~(c) An ownership or interest in any entity in which the investment adviser or investment adviser salesperson is recommending that the client purchase (excluding mutual funds)).~~

(12) Guaranteeing a client that a specific result will be achieved (gain or no loss) with advice which will be rendered.

(13) Publishing, circulating or distributing any advertisement which does not comply with Rule 206(4)-1 under the Investment Advisers Act of 1940.

(14) Disclosing the identity, affairs, or investments of any client unless required by law to do so, or unless consented to by the client.

(15) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment adviser has custody or possession of such securities or funds when the adviser's action is subject to and does not comply with the requirements of Reg. 206(4)-2 under the Investment Advisers Act of 1940.

(16) Entering into, extending or renewing any investment advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the adviser and that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract.

(17) Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information contrary to the provisions of Section 204A of the Investment Advisers Act of 1940.

(18) Entering into, extending, or renewing any advisory contract contrary to the provisions of section 205 of the Investment Advisers Act of 1940. This provision shall apply to all advisers registered or required to be registered under the Securities Act of Washington, chapter 21.20 RCW, notwithstanding whether such adviser would be exempt from federal registration pursuant to section 203(b) of the Investment Advisers Act of 1940.

(19) To indicate, in an advisory contract, any condition, stipulation, or provisions binding any person to waive compliance with any provision of the Securities Act of Washington, chapter 21.20 RCW, or of the Investment Advisers Act of 1940, or any other practice contrary to the provisions of section 215 of the Investment Advisers Act of 1940.

(20) Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative in contrary to the provisions of section 206(4) of the Investment Advisers Act of 1940, notwithstanding the fact that such investment adviser is not registered or required to be registered under section 203 of the Investment Advisers Act of 1940.

(21) Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Securities Act of Washington, chapter 21.20 RCW, or any rule or regulation thereunder.

The conduct set forth above is not inclusive. ~~((e))Engaging in other conduct such as ((~~forger~~, ~~embezzlement~~),) non-disclosure, incomplete disclosure ((~~or misstatement of material facts~~)), ((~~or manipulative~~)) or deceptive practices shall ~~((also be grounds for denial suspension or revocation of registration))~~ be deemed an unethical business practice. The federal statutory and regulatory provisions referenced herein shall apply to investment advisers and federal covered advisers, to the extent permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290).~~

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

WSR 99-03-052
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed January 15, 1999, 3:56 p.m.]

Date of Adoption: January 15, 1999.

Purpose: Proposed WAC 460-24A-145 would require investment advisors to disclose certain information about themselves and their businesses to advisory clients and prospective advisory clients. The disclosure required by this rule consists of the information contained in Section II of Form ADV. This rule will assist the investing public to make more informed investment decisions, fill a gap created by changes in federal law, and foster uniformity with other jurisdictions.

Statutory Authority for Adoption: Section 9, chapter 15, Laws of 1998.

Adopted under notice filed as WSR 98-22-014 on October 23, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: No rule may be adopted unless the director of the Department of Financial Institutions finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of chapter 21.20 RCW.

Effective Date of Rule: Thirty-one days after filing.

January 15, 1999

John L. Bley

Director

[NEW SECTION]

WAC 460-24A-145 Investment adviser brochure rule. (1) General Requirements. Unless otherwise provided in this rule, an investment adviser, registered or required to be registered pursuant to RCW 21.20.040 shall, in accordance with the provisions of this section, furnish each advisory client and prospective advisory client with a written disclosure statement which may be a copy of Part II of its Form ADV or written documents containing at least the information then so required by Part II of Form ADV, or such other information as the administrator may require.

(2) Delivery. (a) An investment adviser, except as provided in subparagraph (b) of this paragraph, shall deliver the statement required by this section to an advisory client or prospective advisory client (i) not less than 48 hours prior to entering into any investment advisory contract with such client or prospective client, or (ii) at the time of entering into any such contract, if the advisory client has a right to terminate the contract without penalty within five business days after entering into the contract.

(b) delivery of the statement required by subparagraph (a) need not be made in connection with entering into (i) an investment company contract or (ii) a contract for impersonal advisory services.

(3) Offer to Deliver. (a) An investment adviser, except as provided in subdivision (b), annually shall, without charge, deliver or offer in writing to deliver upon written request to each of its advisory clients the statement required by this section.

(b) The delivery or offer required by subparagraph (a) need not be made to advisory clients receiving advisory services solely pursuant to (i) an investment company contract or (ii) a contract for impersonal advisory services requiring a payment of less than \$200.00.

(c) With respect to an advisory client entering into a contract or receiving advisory services pursuant to a contract for impersonal advisory services which requires a payment of \$200.00 or more, an offer of the type specified in subparagraph (a) shall also be made at the time of entering into an advisory contract.

(d) Any statement requested in writing by an advisory client pursuant to an offer required by this subsection must be mailed or delivered within seven days of the receipt of the request.

(4) Omission of Inapplicable Information. If an investment adviser renders substantially different types of investment advisory services to different advisory clients, any information required by Part II of Form ADV may be omitted from the statement furnished to an advisory client or prospective advisory client if such information is applicable only to a type of investment advisory service or fee which is not rendered or charged, or proposed to be rendered or charged, to that client or prospective client.

(5) Other Disclosures. Nothing in this rule shall relieve any investment adviser from any obligation pursuant to any provision of Chapter 21.20 RCW or the rules and regulations thereunder or other federal or state law to disclose any information to its advisory clients or prospective advisory clients not specifically required by this rule.

(6) Definitions. For the purpose of this rule: (a) "contract for impersonal advisory services" means any contract relating solely to the provision of investment advisory services (i) by means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts; (ii) through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or (iii) any combination of the foregoing services.

(b) "entering into," in reference to an investment advisory contract, does not include an extension or renewal without material change of any such contract which is in effect immediately prior to such extension or renewal.

(c) "investment company contract" means a contract with an investment company registered under the Investment Company Act of 1940 which meets the requirements of Section 15(c) of that Act.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 99-03-053
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 [Filed January 15, 1999, 3:58 p.m.]

Date of Adoption: January 15, 1999.

Purpose: To amend WAC 460-28A-015 to clarify the time period for filing of sales and advertising literature and promotional material relating to registered offerings of securities. Subsection (1) of WAC 460-28A-015 contains and apparent calendar day standard for pre-filing of sales and advertising literature and promotional materials. Subsection

(2) of the rule specifies a business day standard for the disallowance of filed materials. In the interests of consistency and clarity it is being proposed to amend subsection (1) to also utilize the business day standard for filing of sales and advertising literature and promotional materials.

Citation of Existing Rules Affected by this Order:
 Amending WAC 460-28A-015.

Statutory Authority for Adoption: RCW 21.20.450.

Adopted under notice filed as WSR 98-22-013 on October 23, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: No rule may be made unless the director of the Department of Financial Institutions finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of chapter 21.20 RCW.

Effective Date of Rule: Thirty-one days after filing.

January 15, 1999

John L. Bley

Director

AMENDATORY SECTION (Amending Order 342, filed 9/29/75)

WAC 460-28A-015 All advertisements to be filed. All sales and advertising literature and promotional material, other than that exempted by these rules, shall be governed by the following:

(1) The registration applicant or registrant shall file with the division, at least five business days before its intended dissemination, one copy of each item of literature or material.

(2) If not disallowed by the administrator by written notice or otherwise within three business days from the date filed, the literature or material may be disseminated.

(3) No formal approval of the literature or material shall be issued by the administrator.

(4) The disseminator of the literature or material shall be responsible for the accuracy and reliability of the literature and material, and its conformance with the code and these rules.

WSR 99-03-062
PERMANENT RULES
DEPARTMENT OF HEALTH
 [Filed January 18, 1999, 2:03 p.m.]

Date of Adoption: December 9, 1998.
 Purpose: Repeals WAC 246-05-001, 246-05-010, and 246-05-030.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-05-001, 246-05-010, and 246-05-030.

Statutory Authority for Adoption: RCW 43.70.480.
 Adopted under notice filed as WSR 98-22-103 on November 4, 1998.

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.

Effective Date of Rule: Thirty-one days after filing.
 January 11, 1999
 K. Van Gorkom
 Deputy Secretary

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|----------------|------------------------------|
| WAC 246-05-001 | Purpose. |
| WAC 246-05-010 | Definitions. |
| WAC 246-05-030 | Assurance of nonsupplanting. |

WSR 99-03-063
PERMANENT RULES
STATE BOARD OF HEALTH
 [Filed January 18, 1999, 2:06 p.m.]

Date of Adoption: December 9, 1998.
 Purpose: Repeals WAC 246-05-020.
 Citation of Existing Rules Affected by this Order: Repealing WAC 246-05-020.
 Statutory Authority for Adoption: RCW 43.30.050.
 Other Authority: RCW 70.46.080.
 Adopted under notice filed as WSR 98-22-104 on November 4, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.
 January 12, 1999
 Sylvia I. Beck
 Executive Director

REPEALER

The following section of the Washington Administrative Code is repealed:

- | | |
|----------------|--|
| WAC 246-05-020 | Appendix—County, city, or town in a public health district, department, or county-city department. |
|----------------|--|

WSR 99-03-064
PERMANENT RULES
DEPARTMENT OF HEALTH
 [Filed January 18, 1999, 2:11 p.m.]

Date of Adoption: January 4, 1999.
 Purpose: To adopt rules which explain the application and examination requirements for midwifery as well as the process of releasing scores and the procedure if an applicant fails the examination. Amendments will change the licensure exam to adopt the national exam developed by the North American Registry of Midwives. This examination is more cost-effective and accepted by other states.

Citation of Existing Rules Affected by this Order: Amending WAC 246-834-060, 246-834-070, and 246-834-080.

Statutory Authority for Adoption: RCW 18.50.060.
 Adopted under notice filed as WSR 98-23-072 on November 17, 1998.

Changes Other than Editing from Proposed to Adopted Version: The rules now in effect indicate a passing score of 75. This was removed from the proposed rules. This is being restored by adding the following to WAC 246-834-070(1), "The minimum passing score for both the NARM examination and the state specific component examination is 75."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

PERMANENT

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 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 3, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 11, 1999

Kristine Van Gorkom

Deputy Secretary

NEW SECTION

WAC 246-834-050 Examination requirements for licensure as a midwife. This rule provides the minimum examination requirements for licensure as a midwife.

(1) The midwifery examination offered by the North American Registry of Midwives (NARM) is the official examination for midwifery licensure. All applicants must complete this examination with a passing score. This examination shall be offered by the department of health midwifery program twice a year. If the applicant passes the examination within two years prior to applying for a Washington license, the department will accept the results.

(2) In addition to the NARM examination, all applicants must pass the Washington state specific component examination.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-834-060 Application ~~((for licensing examination))~~ requirements for licensure as a midwife. ~~((1) All applicants shall file a completed, notarized application, with the application fee specified in WAC 246-834-990, at least 45 days prior to the examination.~~

~~(2) Applicants shall request that the school of midwifery send an official transcript directly to the department of health.~~

~~(3) Those who have properly applied to take the midwifery licensing examination and have met all qualifications will be notified of their eligibility to be examined. Upon notification of eligibility, the examination fee specified in WAC 246-834-990 must be submitted. Only applicants so notified will be admitted to the examination.~~

~~(4) All applicants shall take the current state licensing examination for midwives.~~

~~(5) The minimum passing score on the licensing examination is 75 percent.~~

~~(6) Applicants must complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.) This rule provides the requirements for application for a midwife license.~~

(1) All applicants must submit a Washington state application for licensure, along with the applicable fees specified in WAC 246-830-990 and additional documentation as specified below. Applications must be received fifty-six days prior to the examination.

(2) Applicants must submit the following documentation:

(a) Transcripts sent directly from an approved school which indicate the applicant has received a certificate or diploma in midwifery. Those applicants applying under WAC 246-834-220 will be exempted from this requirement.

(b) One current passport type photograph, signed and dated across the bottom of the photo or on the back.

(c) Proof of high school graduation or passing the general educational development test.

(d) A current plan for consultation, emergency transfer and transport.

(e) Verification of seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

(f) Applicants with disabilities who wish to request special accommodations must do so when submitting their application.

(g) Applicants who have passed the NARM examination within the past two years must have verification of the examination results sent directly from NARM to the department.

(3) It is the applicant's responsibility to complete an application for the NARM examination and submit the application along with the NARM examination fee directly to NARM. A NARM application and instructions will be provided in the state application packet sent to the applicant.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-834-070 Release of examination results.

(1) Applicants shall be notified of examination results. All notices shall be by mail. The minimum passing score for both the NARM examination and the Washington state specific component examination is 75.

(2) Applicants who pass both the NARM examination and the Washington state specific component examination and meet all eligibility requirements shall receive ~~((the results of the examination and instructions for obtaining))~~ a license to practice as a midwife, unless there are grounds for disciplinary action under chapter 18.130 RCW.

(3) Applicants who fail shall receive notice of their eligibility to be reexamined, and of the procedure for applying for reexamination.

(4) ~~((Each accredited school of midwifery shall receive a statistical report of the test results of applicants who graduated from that school.~~

~~((5))~~ Results of the examination will not be released to anyone except as provided above unless release is authorized by the applicant in writing.

~~((6) The applicant's examination results will be maintained by the department.))~~

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-834-080 Failures. (1) An applicant who has failed either the NARM examination or the Washington state specific component examination or both must retake and pass the examination(s) which he or she failed. The applicant may ~~((be reexamined))~~ sit for the examination if he~~((s))~~ or she;

(a) Applies to the department at least ~~((30))~~ fifty-six days prior to the next scheduled examination~~((s))~~; and

(b) Pays any required fee as specified in WAC 246-834-990.

~~(2) ((If an applicant fails his/her first examination, no additional fee will be required if the candidate is reexamined within one year. Applicants shall pay an examination fee determined by the secretary for examinations taken after the first reexamination.~~

~~(3))~~ Applicants who fail the second retest shall be required to submit evidence to the secretary of completion of an individualized program of study approved in advance by the department prior to ~~((being permitted to be reexamined))~~ retaking the examination.

(3) Applicants may have their examination hand-scored by submitting a request and appropriate fee directly to NARM within ninety days of the examination administration. A copy of their request must be sent to the department. The department will inform the applicant of the results of the hand-scored examination.

Wood framed construction, 246-359-210 Treated wood foundations for wood framed construction, 246-359-220 Floor framing for wood framed construction, 246-359-230 Wall framing for wood framed construction, 246-359-240 Exterior wall covering for wood framed construction, 246-359-250 Roof framing for wood framed construction and concrete masonry units (CMU), 246-359-300 Ceiling framing for wood framed construction and concrete masonry units (CMU), 246-359-310 Roof sheathing for wood framed construction and concrete masonry units, 246-359-320 Roof covering materials for wood framed construction and concrete masonry units (CMU), 246-359-330 Roof framing ventilation for wood framed construction and concrete masonry units (CMU), 246-359-340 Nailing schedule wood framed construction and concrete masonry units, 246-359-350 Roof connections for concrete masonry units (CMU), 246-359-400 Concrete masonry unit (CMU), 246-359-405 Concrete masonry units (CMU) materials, 246-359-410 Foundations and footings for concrete masonry units (CMU) walls, 246-359-420 Placing of concrete masonry units (CMU), 246-359-430 Floors for concrete masonry units (CMU), 246-359-440 Walls of concrete masonry units (CMU), 246-359-500 Window construction requirements, 246-359-510 Door requirements, 246-359-520 Door landings, stairways and guardrails, 246-359-530 Interior finishes, 246-359-540 Lighting and electrical, 246-359-550 Smoke detectors, 246-359-560 Plumbing, 246-359-565 Cooking facilities, 246-359-570 Mechanical installations, 246-359-575 Energy and ventilation and indoor air quality requirement exemptions, 246-359-580 Heating and insulation, 246-359-590 Liquid petroleum gas (LP-gas) storage tanks, 246-359-600 Alternate construction, 246-359-700 Approval of factory assembled structures (FAS), 246-359-710 Installation of factory assembled structures (FAS)—Except for manufactured homes, 246-359-720 Installation requirements for manufactured homes, 246-359-730 Manufactured home installers, 246-359-740 Drain connector to factory assembled structures (FAS), 246-359-750 Water connector to factory assembled structures (FAS), 246-359-760 Gas connections to factory assembled structures (FAS), 246-359-800 WISHA requirements affecting building temporary worker housing, and 246-359-990 Fees.

Statutory Authority for Adoption: RCW 70.114A.081.

Adopted under notice filed as WSR 98-21-085 on October 21, 1998.

Changes Other than Editing from Proposed to Adopted Version: Temporary worker housing construction standard, chapter 246-359 WAC.

Abbreviations used throughout the document:

AAG	Assistant Attorney General
APA	Administrative Procedure Act
DOH	Department of Health
FAS	Factory Assembled Structures
L&I	Department of Labor and Industries
OSHA	Occupational Safety and Health Act
SBCC	State Building Code Council
RCW	Revised Code of Washington
TWH	Temporary Worker Housing

PERMANENT

**WSR 99-03-065
PERMANENT RULES
DEPARTMENT OF HEALTH**

[Filed January 18, 1999, 2:14 p.m.]

Date of Adoption: December 1, 1998.

Purpose: Establishes building code requirements for structures to be used as temporary worker housing.

Citation of Existing Rules Affected by this Order: Establishes new chapter 246-359 WAC, Temporary worker housing construction standard, WAC 246-359-001 Purpose and scope, 246-359-005 Applicability, 246-359-010 Definitions, 246-359-020 Powers and duties of the Department of Health, 246-359-030 Cooperation with the Department of Health—Right of entry, 246-359-040 Appeals, 246-359-050 Minor variances to the temporary worker housing construction standard, 246-359-060 Architect or engineer of record and plan submittal responsibilities, 246-359-070 Application and construction documents required for plan review, 246-359-080 Plan review approval and expiration of plan approval, 246-359-090 Issuing and maintaining a construction permit, 246-359-100 Expiration and extension of construction permits, 246-359-110 Construction without a permit, 246-359-120 Required inspections, 246-359-130 Stop work orders, 246-359-140 Certificate of completion, 246-359-150 Site requirements, 246-359-160 Temporary worker housing minimum floor area and ceiling height, 246-359-170 Wood framed construction and concrete masonry unit (CMU) general limitations, 246-359-180 Concrete footings and foundations for wood framed construction, 246-359-200

- UBC Uniform Building Code
- UFC Uniform Fire Code
- WABO Washington Association of Building Officials
- WAC Washington Administrative Code
- WISHA Washington Industrial Safety and Health Act

WAC Section	Change	Reason for Change
WAC 246-359-005 Applicability	General change deleted all references to federal requirements. Added some commas. Minor language changes.	Federal rule references were included as informational, have excluded as statute does not give authority to enforce. Grammar and language changes were made as suggested by AAG.
(2)	Delete subsection (2) in its entirety.	Suggested by AAG as being unnecessary and confusing.
(3)	Changed can to may. Left content intact.	The ability to convert UBC nonresidential buildings to occupancies used for habitation is allowed for under UBC. DOH restricted all of the allowances provided for in the UBC as this rule is for one type of occupancy. UBC covers all occupancy types.
WAC 246-359-010 Definitions.	Minor changes, mostly corrections.	Grammar, AAG suggestion, WAC reference correction and to match L&I rules for FAS.
WAC 246-359-030 Cooperation w/DOH Right of entry.	(2) One word change, deleted "all."	This section is RCW language. In testimony some wanted more authority for DOH, some less. DOH is restricted by the RCW.
WAC 246-359-040 Appeals.	(3) Corrected address. No other change.	Concern was expressed about on appeal process. WAC describes APA procedure; DOH does not have control over this. DOH plans to further describe this in guidelines.
WAC 246-359-050 Variances to TWH construction standard.	Inserted the word "minor" in front of "variances."	Statute requires DOH to include a procedure for variances. DOH has added the word minor to reflect exact language from law. Will address "minor" in guideline and will make it clear "minor" does NOT include structural change.
WAC 246-359-110 Construction without a permit; and 246-359-130 Stop work orders.	Added "of that jurisdiction." Changed an "and" to an "or."	AAG review suggested adding this phrase to more clearly define prosecuting attorney. Discussions wanted DOH to add language to be able to penalize those who build w/out a permit. Current statute does not give DOH the authority. As WAC is worded DOH will refer those building without a permit to the local jurisdiction, and they have authority.
WAC 246-359-180 through 246-359-340	Grammar, added words that were left out minor changes, except as noted in next few frames of this table.	AAG review. Errors found. Clarifying

PERMANENT

WAC Section	Change	Reason for Change
WAC 246-359-250 Roof framing for wood framed construction and concrete masonry units (CMU)	Other than minor grammar or word corrections no change was necessary.	L&I suggested changes to subsection (1). DOH believes this change is for L&I when FAS rules are written, and are not part of this WAC chapter. One comment suggested hold down clips at rafters or trusses. No change needed subsection (7) requires ties. Misread of rule.
WAC 246-359-330 Roof framing ventilation for WFC and CMU	Other than minor grammar or word corrections no change was necessary.	Suggestion to require more ventilation. DOH talked with a local bldg official and found requirement, as written, meets UBC attic space ventilation requirements.
WAC 246-359-350 Roof connections for concrete	Added to (1) "two inch nominal thickness."	Clarifying the 1/2" diameter bolts. Suggested by an architect on SBCC. Good catch at an omission of language.
WAC 246-359-400 through 246-359-420	Grammar, words added which were left out, all very minor changes.	AAG review. Errors found. Clarifying.
WAC 246-359-440 CMU materials.	Added to (1) "reinforced with 6x6 10/10 welded wire mesh."	Clarifying the diameter bolts. Recommended by architect on SBCC. Good catch at an omission of language.
WAC 246-359-500 Window construction requirements and 246-359-510 Door requirements.	Grammatical changes. No other changes were necessary.	Concern was the number of required doors & windows is inadequate for emergency evacuation. DOH consulted with a former local & state fire marshal on requirements and found the rule consistent with UBC. Comments made about fire egress are not relevant. UFC is not under the purview of this WAC chapter nor UBC. UFC enforcement is under local authority. DOH has assured input from local fire by requiring as part of the required documents for plan review, in WAC 246-359-070 (1) (i) "proof the project meets zoning requirements as established for height, setback and <i>road access</i> ... The road access is determined by local zoning with input from local fire departments responsible for the UFC. DOH will work on policies & procedures with local jurisdictions.
WAC 246-359-530 Interior finishes. General (2)	Moved phrases around. (2) Deleted the word hanging modifying wires and inserted "any" to say "any wires."	AAG suggestions. Clarifying. Intent of proposed rule was to assure a safe interior finish, hanging wires was an e.g. in a list of examples, not meant as inclusive. Change clarifies intent of rule. Suggestion to mirror WISHA is not relevant, this concerns walls not counters. Other idea to specify gypsum board is too restrictive.

WAC Section	Change	Reason for Change
<p>WAC 246-359-540 Lighting and electrical.</p> <p>(2) (a) (b)</p> <p>(3)</p>	<p>Deleted subsections (a) and (b) and inserted:</p> <p>(a) Each habitable room must have: (i) One ceiling light fixture. Additional ceiling light fixtures will be required to comply with the foot candle requirements of chapter 246-358 WAC; and (ii) One separate floor or wall outlet. Additional outlets will be required as determined by the department to prevent safety hazards when the housing is occupied; (b) Laundry and toilet rooms, and rooms where people congregate must have at least one ceiling or wall light fixture. Additional ceiling or wall light fixtures will be required: (i) To comply with the foot candle requirements of chapter 246-358 WAC; and (ii) As determined by the department to prevent safety hazards when the housing is occupied.</p>	<p>Several persons were concerned number of outlets required would not assure safety for TWH occupants. DOH reviewed chapter 246-358 WAC (operational) for foot candle requirements and prevention of electrical hazards. Legislative intent was to have all TWH rules be consistent and not in conflict. To meet this goal DOH decided a change was necessary to be consistent with requirements for the operational WAC, thereby preventing a licensed operator from having to add fixtures at the licensing inspection. DOH has determined the change is not substantial, it only clarifies what is required for licensure. DOH can not require compliance with the full National Electrical Code, as some suggested, as it would put DOH in conflict with the legislation. But this issue can be studied and documented and reviewed to determine change for future rewrites of the rule. DOH is confident the new language will accomplish the stated goal (providing a safe environment for the housing occupants) while maintaining integrity with the statute/legislative intent.</p>
<p>WAC 246-359-560 Plumbing.</p> <p>(1)(a)</p>	<p>Changed. Subsection now reads: (a) Toilet room must be <u>at least 100 feet but not more than 200-hundred.</u></p>	<p>Change was made to be consistent with WISHA and chapter 246-358 WAC. It was a good catch and an oversight in the rule-writing process.</p>
<p>WAC 246-359-580 Heating and insulation.</p> <p>(1)</p>	<p>Changed to read (1) When the TWH is <u>occupied from October first through May first:</u> (a) Department approved heat producing equipment must: (i) Be available or installed; and (ii) Comply with WISHA and chapter 246-358 WAC; (b) A minimum of R-11 insulating material must be used to insulate ceilings and exterior walls.</p>	<p>Several people commented the term "cold weather" was too vague. DOH has made the change to clarify the concerns of those providing comments. Also comments were made to address "cooling." DOH reread the statute and does not find "cooling" addressed and to do so would exceed DOH authority. In discussions with building experts on issue of insulation for cooling, DOH was told the only way to assure cooling was to require mechanical ventilation. UBC does not require mechanical ventilation for residential occupancies, to do so would exceed the statute. This issue will have to be addressed by legislation.</p>
<p>and</p> <p>(2)</p>	<p>Changed word "used" to "required."</p>	

PERMANENT

WAC Section	Change	Reason for Change
WAC 246-359-600 Alternate construction.	Minor wording changes. No other changes.	AAG clarify language. There was concern about allowing alternate construction. Rule uses almost exact wording from UBC. Language was reviewed by WABO. Safety is not sacrificed by including this section in the rule. Misreading of the rule.
WAC 246-359-700 WAC 246-359-730 FAS	Minor wording changes, except for WAC 246-359-700, reworded as suggested by L&I: Part of sentence struck and added: "Manufactured housing built to the federal preemptive code, Part 3280' manufactured home construction and safety standards' must have an insignia of approval installed by the manufacturer. Alterations to manufactured housing and mobile homes must be ..." Corrected numbering.	Corrections for clarity and to correct errors. One change was made based on input from L&I, FAS who are responsible for FAS in this state. The change is not substantive but clarifies what authority L&I does in fact have as related to these products.
WAC 246-359-750 Water connector to FAS, and 246-359-760	Changed one-half to three-fourths.	L&I found an error in the size piping required.
WAC 246-359-990 Fees. (1) General fee information.	Minor language change. Separation of TA from other inspections.	Clarification particularly regarding Technical Assistance visits not being part of investigative costs.

PERMANENT

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 60, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 60, 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 60, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 13, 1999
Mary Selecky
Acting Secretary
K. Van Gorkom
Deputy Secretary

Chapter 246-359 WAC

**TEMPORARY WORKER HOUSING
CONSTRUCTION STANDARD**

NEW SECTION

WAC 246-359-001 Purpose and scope. (1) **Purpose.** The purpose of this chapter is to provide minimum requirements to safeguard the health and general welfare of occupants of temporary worker housing by regulating and controlling the design, construction, materials, location and maintenance of all buildings and structures within the authority of chapter 246-358 WAC (the temporary worker housing rules) and this chapter.

(2) **Scope.** This chapter implements the requirements established by RCW 70.114A.081 and 43.70.337 to provide minimum construction requirements for new, relocated, existing or altered buildings and structures or portions thereof intended for use as temporary worker housing. Such buildings and structures must be licensed by the Washington state department of health under chapter 246-358 WAC and designated as "temporary worker housing occupancies." Buildings and structures which are not licensed, inspected and approved by the department must meet the provisions of the state building code under the local authority having jurisdiction and local ordinances.

NEW SECTION

WAC 246-359-005 Applicability. (1) This chapter applies only to temporary worker housing as:

- (a) Defined in chapter 70.114A RCW; and
- (b) Licensed under chapter 246-358 WAC (temporary worker housing rules) according to RCW 43.70.340 (Farm-worker housing inspection fund—fee on labor camp operating license).

(2) Existing structures built as nonresidential buildings, according to the state building code, may be licensed as temporary worker housing by complying with the specific requirements of WAC 246-359-600, alternate construction, and approved under the authority of this chapter.

(3) Alterations to residential housing constructed according to the state building code and approved by the authority having jurisdiction must apply to:

- (a) The authority having jurisdiction for issuing building permits; or
 - (b) The department in compliance with this chapter.
- (4) Temporary worker housing meeting the requirements of subsection (1) of this section must:

- (a) Be located on a rural worksite; and
- (b) Comply with:
 - (i) WISHA labor camp provisions;
 - (ii) Chapter 246-358 WAC (temporary worker housing rules); and
 - (iii) The electrical code, chapter 296-46 WAC.

(5) Temporary worker housing built in compliance with this chapter is exempt from state building code accessibility laws, RCW 19.27.031(5).

(6) Temporary worker housing built in compliance with this chapter which is subsequently converted to another use becomes subject to all local requirements for such use as enforced by the authority having jurisdiction.

(7) This chapter does not apply to:

- (a) Housing built for use by the general public which is governed by chapter 59.18 RCW (residential Landlord-Tenant Act) or chapter 59.20 RCW (Mobile Home Landlord-Tenant Act);

(b) Factory assembled structures as defined in this chapter, except for the requirements in subsection (8) of this section; and

(c) The construction of structures governed by the state building code and enforced by the authority having jurisdiction.

(8) This chapter is limited to issuing a construction permit for factory assembled structures to meet the following requirements:

- (a) On-site installation; and
- (b) Inspection of the site, foundation, and hook-ups, including, but not limited to: Potable water, sewage disposal systems, or gas connections.

NEW SECTION

WAC 246-359-010 Definitions. For the purposes of this chapter, the following words and phrases will have the following meanings unless the context clearly indicates otherwise:

(1) "Alter" or "alteration" means any change, major repair, addition or modification in construction.

(2) "Architect" means an individual licensed by chapter 18.08 RCW to practice in the state of Washington.

(3) "Construction permit" means a permit issued by the department which allows the applicant to construct structures according to this chapter.

(4) "Construction standard" means temporary worker housing construction code as defined in RCW 70.114A.081.

(5) "Department" means the Washington state department of health.

(6) "Dormitory" means a building or portion of a building, designed to provide group sleeping accommodations for temporary workers.

(7) "Dwelling unit" means a shelter, building, or portion of a building, for a family that may include cooking, eating, sleeping and sanitation facilities and that is physically separated from other nonsleeping and common-use areas.

(8) "Engineer" means an individual licensed by chapter 18.43 RCW to practice in the state of Washington.

(9) "Factory assembled structures" or "FAS" means those structures under the authority of chapter 43.22 RCW including:

- (a) Mobile and manufactured homes;
- (b) Commercial coaches;
- (c) Recreational vehicles;
- (d) Recreational park trailers; and
- (e) Factory-built housing which is any structure designed for human occupancy other than a manufactured or mobile home, where the structure or any room of which is either entirely or substantially prefabricated or assembled at a place other than a building site.

(10) "Family" means two or more persons related by blood or marriage or a group of persons living together in a dwelling unit.

(11) "Floor area" is the area included within the surrounding exterior walls of a building or portion thereof.

(12) "Habitable room" or "habitable space" is a room or space in a structure with a minimum seven foot ceiling used for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas, are not considered habitable space.

(13) "Jurisdiction having authority" means, a local county or city building or health or zoning or public works department or state department of health or ecology or labor and industries, etc.

(14) "Labor camp" means the temporary labor camp requirements of WAC 296-307-160 of the Washington Industrial Safety and Health Act of 1993, chapter 49.17 RCW as amended September 10, 1994.

(15) "Occupant" means a temporary worker or a person who resides with a temporary worker at a housing site.

(16) "State building code" means the building code, plumbing code, mechanical code, and fire code as referenced under RCW 19.27.031.

(17) "Special inspector" means a person paid at the applicant's expense to conduct special inspections when the department determines the required inspections are not sufficient.

(18) "Temporary worker" means a person employed intermittently and not residing year-round at the same site.

(19) "Temporary worker housing" or "TWH" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

(20) "Temporary worker housing (TWH) occupancies" means buildings, structures or portions thereof used for occupancy by temporary workers.

(21) "WISHA" means the Washington Industrial Safety and Health Act, chapter 49.17 RCW administered by the state of Washington department of labor and industries. Temporary labor camp requirements of WAC 296-307-16001 are in force for temporary labor camps.

NEW SECTION

WAC 246-359-020 Powers and duties of the department of health. The department:

(1) Is authorized and directed to enforce all the provisions of this chapter, according to the laws as enacted by the Washington state legislature.

(2) Has the power to issue written interpretations of this chapter as long as the interpretations are in conformance with the intent and purpose of this chapter and the regulated community is informed of these interpretations.

(3) May adopt and enforce rules and supplemental regulations to clarify the application of the provisions of this chapter consistent with the intent and purpose of this chapter.

NEW SECTION

WAC 246-359-030 Cooperation with the department of health—Right of entry. (1) **Department authority.** The department has authority to enter any building or area used for temporary worker housing, at reasonable times to:

(a) Inspect the site for compliance with this chapter and related standards; and

(b) Determine, based on reasonable cause, if a building or condition on the premises is unsafe, dangerous or hazardous.

(2) **Refusal of entry.** When the owner or person having lawful control or supervision authority refuses entry or has required a warrant, the department will seek remedies provided by law to secure entry to the temporary worker housing site.

(3) **Occupied temporary worker housing.** The department must present credentials to the occupant and request the right to enter a dormitory or dwelling unit when temporary workers are in residence.

(4) **Unoccupied temporary worker housing.** When a dormitory or dwelling unit does not have temporary workers in residence, the department must make a reasonable effort to locate the owner or person having lawful control or supervision of the temporary worker housing to request entry.

NEW SECTION

WAC 246-359-040 Appeals. (1) The department may deny, suspend, modify, or revoke a permit in any case in which it finds that there has been a failure or refusal to comply with the requirements of chapter 70.114A RCW or this chapter.

(2) The department's notice of a denial, suspension, modification, or revocation of a license will be consistent with RCW 43.70.115. An applicant or license holder has the right to an adjudicative proceeding to contest a decision.

(3) An applicant who contests a department permit decision must, within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Administrative Hearings Unit, Department of Health, PO Box 47879, Olympia, WA 98504-7879; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved;

(ii) The grounds for contesting the department decision; and

(iii) A copy of the contested department decision.

(4) The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW, this chapter, and chapters 246-08 and 246-10 WAC. If a provision in this chapter conflicts with chapter 246-08 or 246-10 WAC, the provision in this chapter governs.

NEW SECTION

WAC 246-359-050 Minor variances to the temporary worker housing construction standard. An applicant may apply for a minor variance from the requirements of this chapter by filing a written request with the department.

(1) **Responsibilities of applicant.** If requesting a minor variance, an applicant must:

(a) Submit the following information in writing:

(i) The specific requirement or requirements from which the variance is requested;

(ii) Adequate justification that the variance is needed to obtain a beneficial use of the housing or to prevent a practical difficulty; and

(iii) How the variance will achieve the same result as the requirement and any specific alternative measures to be taken to protect the health and safety of the occupants;

(b) Pay a fee set by the department according to WAC 246-359-990, Table I; and

(c) Follow the process stated in WAC 246-359-060, alternate construction, when applicable.

(2) **Department response.** The department will provide a written response to the applicant within forty-five days of receipt of the minor variance request. The written response will state the acceptance or denial of the variance, including the reasons for the department's decision. At a minimum the department will make its decision based on:

(a) The applicant's request as described in subsection (1) of this section;

(b) Research into the variance request; and

(c) Expert advice.

(3) **Applicant's response to denials.** According to chapter 34.05 RCW the applicant has twenty-one days after receiving the department's written denial, of the variance request, to contest the decision.

NEW SECTION

WAC 246-359-060 Architect or engineer of record and plan submittal responsibilities. (1) The department will require construction documents to be prepared by an architect or engineer under:

- (a) WAC 246-359-600, alternate construction;
 - (b) WAC 246-359-710, installation requirements for factory assembled structures;
 - (c) WAC 246-359-720, installation requirements for manufactured homes.
- (2) The applicant must provide the name of the architect or engineer of record on the construction permit application.
- (3) The applicant is responsible to notify the department, in writing, when the architect or engineer of record changes or is no longer able to review and coordinate all the necessary submittal documents for compatibility with the design of the building.

NEW SECTION

WAC 246-359-070 Application and construction documents required for plan review. (1) To have construction documents reviewed the applicant must submit to the department:

- (a) A completed and signed application, on a form provided by the department, for each structure (individual building);
- (b) The required plan review fee, according to WAC 246-359-990;
- (c) Two sets of construction documents, on substantial paper, including:
 - (i) Plans and diagrams drawn to scale;
 - (ii) Specifications;
 - (iii) Computations; and
 - (iv) Other documents needed to determine if the provisions of this chapter and related state rules are being met, for example solid waste disposal management plan or soil testing;
- (d) When applicable, manufacturer's installation instructions as required for factory assembled structures, WAC 246-359-710, and manufactured homes, WAC 246-359-720;
- (e) Proof of an adequate approved potable water supply to meet the intended use of the temporary worker housing and which meets the requirements of chapters 246-290 and 246-291 WAC (water rules) and WISHA;
- (f) Copy of the on-site sewage system permit from the jurisdiction having authority;
- (g) Proof of a water right permit from the department of ecology, when required;
- (h) Proof of current approval from labor and industries, when required, for factory assembled structures; and
- (i) Proof the project meets zoning requirements as established for height, setback and road access under the authority having jurisdiction.

(2) The plans and specifications must clearly identify in detail the location, nature and extent of the work proposed.

(3) The department will only begin plan review when:

- (a) All the documents required in this section are submitted; and
 - (b) The plan review fee is received.
- (4) The department can refund up to eighty percent of the plan review fee if the applicant submits a written request to stop the project before the plan review process is complete. Refunds are based on the plan review fee paid as required by Table I in WAC 246-359-990 and the amount of plan review completed as determined by the department.

(5) The department will charge an additional plan review fee according to Table I in WAC 246-359-990, when:

- (a) Site inspections determine the project has not been built according to the approved construction documents and an additional plan review is required; or
- (b) Revised construction documents are submitted after approval of the initial construction documents.

NEW SECTION

WAC 246-359-080 Plan review approval and expiration of plan approval. (1) The department will notify the applicant in writing:

- (a) With a "plan review approval letter" when the construction documents meet the requirements of this chapter; or
- (b) With a "not approved letter" when the construction documents do not meet the requirements of this chapter and a resubmission of plans or documents is required by the department for approval.

(2) The applicant has a period of one year from the date of the plan review approval letter to submit the construction permit fee or the plan review approval will expire.

(3) The department will destroy all construction documents related to the project when the plan review approval expires.

(4) To renew action on an expired plan review the applicant must resubmit the construction documents and pay a new plan review fee to the department as required in WAC 246-359-990.

(5) Construction documents modified after the department issues approval must be resubmitted for approval with an additional fee as specified in WAC 246-359-070.

NEW SECTION

WAC 246-359-090 Issuing and maintaining a construction permit. (1) The department will issue a construction permit when:

- (a) Construction documents are approved according to WAC 246-359-080; and
 - (b) Permit and inspection fees are paid according to WAC 246-359-990.
- (2) Construction can begin after the applicant is issued a construction permit by the department;
- (3) The following conditions, at a minimum, must be met during construction:

(a) The "inspection record card" must be posted in a visible location at the worksite and be readily accessible to the inspector at the worksite; and

(b) The approved plans must be readily available to the inspector during all scheduled inspections.

(4) The department will void the permit and the applicant's right to continue construction when:

(a) The plans are changed, modified or altered without prior approval by the department as specified in WAC 246-359-080;

(b) Any deviation in construction or design is made from the approved plans; and

(c) The inspection record card and the approved plans are not readily and easily available to the inspector.

NEW SECTION

WAC 246-359-100 Expiration and extension of construction permits. (1) **Permit expiration.** The permit will be considered null and void one year from the date the permit was issued if the applicant:

(a) Has not initiated the work authorized by the permit;

(b) Suspends or abandons the authorized work at any time after the work has begun by not calling for the next required inspection within one year after a required inspection;

(c) Has not applied for a time extension according to the requirements in subsection (2) of this section.

(2) **Permit extension.** The applicant can apply for a one time only extension when the request is made in writing to the department:

(a) Before the permit expires;

(b) Stating reasons satisfactory to the department;

(c) The original plans and specifications will be used and no changes have been made or are planned to be made; and

(d) The applicable standards have not changed.

(3) Any applicant who does not apply for an extension according to the requirements in this section cannot resume work unless the applicant:

(a) Resubmits plans according to WAC 246-359-070; and

(b) Pays full plan review and permit fee according to WAC 246-359-990.

(4) The department can refund up to eighty percent of the construction permit fee if the applicant submits a written request before construction starts. The refund will be determined by the department based on the permit fee paid as required by Table I in WAC 246-359-990.

NEW SECTION

WAC 246-359-110 Construction without a permit.

(1) Construction of temporary worker housing allowed by this chapter can only begin after a construction permit has been issued by the department as described in WAC 246-359-090.

(2) A person who begins any work without a construction permit will be subject to an investigation and an investigation fee as described in WAC 246-359-990 whether or not a permit is then or subsequently issued. An investigation and

investigation fee will be in addition to any other "additional" inspections or fees described in WAC 246-359-990.

(3) The department will determine if the person initiating building or work without a required construction permit is:

(a) Under the authority of this chapter and must follow the construction permit process defined in this chapter; or

(b) Found to be outside the authority of this chapter and must be reported to the jurisdiction having authority and the prosecuting attorney of that jurisdiction.

NEW SECTION

WAC 246-359-120 Required inspections. The department or its designee, when notified by the applicant in writing has authority to conduct all of the inspections described in this section.

(1) **Site/foundation inspection.** To be made after excavations for footings are complete, and after any required forms and reinforcing steel are in place, **but** before any concrete has been placed.

(2) **Concrete slab or under-floor inspection.** To be made after all in-slab or under-floor building service equipment, conduit, piping accessories and other ancillary equipment items are in place, **but** before any concrete is placed or floor sheathing installed, including the subfloor.

(3) **Framing/rough-in inspection.** To be made after the roof, all framing, wall, and roof members are in place including fire blocking and bracing, heating, and rough electrical and plumbing has been installed.

(4) **Final inspection.** To be made after finish grading and the building is completed and ready for occupancy.

(5) **Additional inspections.** To be made after the applicant has received notification that an additional inspection or inspections are necessary. The department will conduct the following additional inspections to:

(a) Assure the requirements of this chapter are being met, specifically to verify:

(i) Stop work orders, WAC 246-359-130, are adhered to;

(ii) Approved plans, according to WAC 246-359-080,

have not been altered without prior department approval; and
(iii) A construction permit has been issued according to WAC 246-359-090;

(b) Determine compliance with other required laws or ordinances necessary to enforce this chapter; and

(c) Determine if an approved variance is being followed, when verification cannot be determined through the inspections described in subsections (1) through (4) of this section.

(6) **Special inspections.** To be made by a special inspector when the applicant is building to the alternate construction standards and the inspections required in subsections (1) through (5) of this section are not sufficient to determine compliance with the alternate construction methods.

(7) **Reinspections.** Reinspections will be conducted and a reinspection fee charged for each reinspection conducted for the following reasons:

(a) Work for which an inspection is requested and is not complete;

(b) Required corrections called for have not been made;

(c) The inspection record card is not posted or readily available at the worksite;

(d) The approved plans are not readily available to the inspector; and

(e) The inspector's request for equipment or information was not provided at the site preventing the inspector from conducting the scheduled inspection.

NEW SECTION

WAC 246-359-130 Stop work orders. (1) The department, upon notifying the applicant in writing, will order work to be stopped when the work being done is found to be contrary to:

- (a) The approved plans;
- (b) The requirements of this chapter; or
- (c) Other laws or ordinances approved and necessary to enforce this chapter at a minimum as stated in WAC 246-359-005(4), applicability.

(2) If the department finds work being done contrary to subsection (1) of this section the department, in addition to notifying the applicant in writing, will post a "stop work order" on the construction site.

(3) The applicant is prohibited from continuing any work or causing any work to be performed until solutions to rectify the conditions causing the stop work order have been approved by the department.

(4) The department will document removal of the stop work order by:

- (a) Providing the applicant written authorization to proceed with the work; and
- (b) Removing or causing the "stop work order" to be removed.

NEW SECTION

WAC 246-359-140 Certificate of completion. (1) The department will issue a "certificate of completion" when:

- (a) The inspector determines the project is completed in compliance with the approved construction documents;
- (b) The department determines the project is in compliance with this chapter and related rules including:
 - (i) Proof the potable water supply is approved and adequate to meet the requirements of chapters 246-290 and 246-291 WAC (water rules) and WISHA;
 - (ii) Proof the sewage disposal system has been approved by the jurisdiction having authority, for example, city or county health or public works department, state department of health or state department of ecology; and
 - (iii) Proof the electrical system has been approved by the jurisdiction having authority, for example, Washington state department of labor and industries or the city building or planning departments.

(2) **Approved to apply for a license.** The applicant can apply for a temporary worker housing license according to chapter 246-358 WAC after receiving a certificate of completion from the department.

NEW SECTION

WAC 246-359-150 Site requirements. (1) The site used for temporary worker housing must be:

(a) Adequately drained and not subject to periodic flooding;

(b) Located a distance of at least two hundred feet from all surface water;

(c) Located so the drainage from and through the temporary worker housing will not endanger any domestic or public water supply;

(d) Graded, ditched, and made free from depressions which allow water to become a nuisance;

(e) Adequate in size to prevent overcrowding of necessary structures; and

(f) Located on a slope which is not more than one unit (inches, feet, etc.) vertical per twenty units horizontal.

(2) Any structure used for sleeping or preparing and serving food must be located at least five hundred feet from any area in which livestock is kept.

(3) All temporary worker housing structures must be located a minimum of ten feet from any other structure or building.

NEW SECTION

WAC 246-359-160 Temporary worker housing minimum floor area and ceiling height. (1) Rooms used for sleeping purposes only must have a minimum of fifty square feet of floor space for each occupant.

(2) Rooms used for cooking, living, and sleeping must have a minimum of seventy square feet for the first occupant and fifty-square feet for each additional occupant.

(3) All habitable rooms and spaces including halls, bathrooms and toilet compartments must have at least a seven foot clear height from the floor to the ceiling or exposed ceiling framing.

NEW SECTION

WAC 246-359-170 Wood framed construction and concrete masonry unit (CMU) general limitations. (1) When building with wood or CMU as required by WAC 246-359-200 through 246-359-580 the following requirements apply:

(a) Floor area must be limited to three thousand six hundred square feet per building;

(b) Height must be limited to one story; and

(c) All floor surfaces must be above grade, no basements.

(2) When building to WAC 246-359-600, alternate construction, the limitations in subsection (1) of this section do not apply.

NEW SECTION

WAC 246-359-180 Concrete footings and foundations for wood framed construction. (1) Concrete used for footings and foundations must have a minimum compressive strength of two thousand pounds per square inch (psi). Concrete must be mixed and delivered in accordance with the requirements of ASTM C94 (Ready-Mix Concrete), or may be field mixed. Field mixed concrete will be subject to independent compressive strength testing and special inspection.

(2) Concrete footings must be placed on firm, undisturbed soil.

(3) Concrete footings must be continuous, be a minimum of twelve inches wide by six inches thick, be reinforced with a minimum of two No. 4 continuous rebar, and be at least eighteen inches below finished grade measured from the bottom of the footing.

(4) Concrete foundations must be a minimum of six inches thick, be reinforced with a minimum of two continuous horizontal No. 4 at the top, be reinforced vertically with No. 4 at twenty-four inches on center, extend at least six inches above the finished grade, and have a total height of not greater than forty-eight inches.

(5) Concrete foundations that are formed by a thickened concrete slab edge as part of a slab on grade floor must be reinforced with two pieces of No. 4 rebar in the upper part and two pieces of No. 4 rebar in the lower part of the foundation. The concrete floor will be reinforced according to WAC 246-359-430. The thickened concrete slab edge must extend at least eighteen inches below finished grade, be at least twelve inches in width, and provide a slab height of at least six inches above finished grade.

(6) Where the walls are of wood construction, the treated foundation plates or sills must be bolted to the foundation or foundation wall with not less than one-half inch nominal diameter steel bolts embedded at least seven inches into the concrete and spaced not more than seventy-two inches apart. There must be a minimum of two bolts per piece with one bolt located within twelve inches of each end of each piece. A properly sized nut and washer must be tightened on each bolt to secure the place.

NEW SECTION

WAC 246-359-200 Wood framed construction. (1) Buildings constructed using wood materials must follow the requirements of WAC 246-359-001 through 246-359-340 to comply with this chapter.

(2) Wood structural members in contact with the ground, and/or concrete must be pressure treated and must bear the proper grade mark of an approved inspection/testing agency.

NEW SECTION

WAC 246-359-210 Treated wood foundations for wood framed construction. (1) All lumber and plywood used for wood foundation systems must be pressure treated and bear the grade mark FDN (foundation grade) or better.

(2) Where FDN lumber and plywood is cut or drilled after treatment, the cut surface must be field treated with a preservative that is designated for that purpose.

(3) Hot-dipped zinc-coated steel nails or stainless steel fasteners will be used as fasteners for treated wood foundation walls. Electrogalvanized nails or staples and hot-dipped zinc-coated staples cannot be used.

(4) Treated wood foundations must have composite footings consisting of a minimum two-by-eight lumber footing plate set eighteen inches below finished grade on top of a layer of gravel, coarse sand or crushed stone. The gravel, sand, or crushed stone footing will have a width of not less

than sixteen inches and a depth of not less than six inches, and must be placed in firm, undisturbed soil.

(5) The gravel, sand, or crushed stone footing must consist of:

(a) Washed and graded gravel free from organic, clayey or silty soils with a maximum stone size not exceeding three-fourths inch;

(b) Coarse sand free from organic, clayey, or silty soils with a minimum grain size of one-sixteenth inch; or

(c) Crushed stone with a maximum size of one-half inch.

(6) Treated wood foundation walls must be constructed of two-by-six studs at a minimum of sixteen inches on center with a double two-by-six top plate. Cover the studs with a minimum one-half inch thick pressure treated exterior plywood sheathing placed on the exterior of the studs. Treated wood foundation walls will not be greater than forty-eight inches measured from the bottom of the footing plate to the top of the double top plate.

(7) Joints in the footing plate and top plates must be staggered at least one stud space. Framing at locations where openings occur in the wall and floor systems above, and at other points of concentrated loads must have studs added at those points to support the concentrated loads.

(8) Before backfilling, cover the gravel, sand, or crushed stone appearing outside the treated wood foundation wall with strips of six-mil thick polyethylene sheeting, Type 30 felt, or equivalent material with adjacent strips lapped to provide for water seepage while preventing excessive infiltration of fine soils.

(9) Backfill on the outside to eight inches or more below the top of the treated wood foundation walls. Backfill on the inside of the treated wood foundation walls (crawl space) a minimum depth of six inches above the top of the footing plate.

NEW SECTION

WAC 246-359-220 Floor framing for wood framed construction. (1) **Girders.**

(a) Girders supporting floor joists must be a minimum four-by-six Hem-Fir #2, spaced not more than eight feet on center, and placed at least twelve inches above ground.

(b) Girders must be continuous, or must be spliced over supports. When a girder is spliced over a support, a positive tie to the support must be provided.

(c) Each end of each girder member must have a minimum three inch of bearing on treated wood plates or treated wood posts.

(2) **Floor joists.**

(a) Floor joists must be a minimum two-by-six spaced sixteen inches on center or two-by-eight spaced twenty-four inches on center, Hem-Fir #2 or better, spanning not more than eight feet between supports, and placed at least eighteen inches above ground.

(b) Floor joists must be continuous or spliced only over a support with a minimum three-inch lap.

(c) The end of each joist must have not less than three inch bearing on treated wood plate.

(d) Notches on the ends of joists cannot not exceed one fourth the joist depth. Holes bored in joists cannot be within

two inches of the top or bottom of the joist, and the diameter of any such hole cannot exceed one-third the depth of the joist. Notches in the top or bottom of joists cannot exceed one-sixth the depth and cannot be located in the middle third of the span.

(e) Floor joists must have solid blocking at the ends and at each support. Solid blocking cannot be less than two inches nominal in thickness and the full depth of the joist.

(3) **Interior bearing.** Interior bearing footings (pads) must be of plain concrete at least sixteen inches by sixteen inches by eight inches thick placed on firm undisturbed soil.

(4) **Ventilation.** Under floor areas (crawl spaces) must be ventilated by one-fourth inch screened openings of not less than one square foot of opening for each one hundred fifty square feet of under-floor area.

(5) **Supporting interior bearing partitions.** Interior bearing partitions perpendicular to floor joists must not be offset from support girders more than the joist depth. Interior bearing partitions parallel to the floor joists must be supported by a doubled floor joist located directly under the interior bearing partition.

(6) **Subflooring.** Subflooring must be structural wood panels (plywood or OSB), particleboard subfloor or combination subfloor-underlayment, or solid wood.

(a) Structural wood panels will be tongue-and-groove installed perpendicular to the floor joists with end joints occurring over floor joists. The minimum thickness must be five-eighths inches (eleven-sixteenths inches) over floor joists spaced sixteen inches on center and three-fourths inches (twenty-five thirty-seconds inches) over floor joists spaced twenty-four inches on center. Structural wood panels must be grade stamped for use and span. Secure structural wood panels to the floor joist system by use of either nails or glue and nails combination. In both systems, nails must be 8d common or deformed shank, spaced six inches on center at the edges and twelve inches on center at intermediate supports.

(b) Particleboard subfloor or combination subfloor-underlayment must be installed perpendicular to the floor joists. The minimum thickness must be five-eighths inches over floor joists spaced sixteen inches on center and three-fourths inches over floor joists spaced twenty-four inches on center. Particleboard must be grade stamped for use and span. Secure particleboard to the floor joist system by use of either nails or glue and nails combination. In both systems, nails must be 8d common or deformed shank, spaced six inches on center at the support edges and twelve inches on center at intermediate supports.

(c) Solid wood must be a minimum size of one-inch by six-inch nominal tongue-and-groove wood strip flooring applied perpendicular or diagonally to the floor joists. Secure solid wood flooring to the floor joist system by use of either nails or glue and nails combination as follows for:

(i) Wood strip flooring six inches or less must be nailed to each floor joist by "2-8d" common or box nails; or

(ii) Wood strip flooring greater than six inches must be nailed to each floor joist by "3-8d" common or box nails.

NEW SECTION

WAC 246-359-230 Wall framing for wood framed construction. (1) Exterior walls and interior partitions must be framed as follows:

(a) Studs must be minimum two-by-four wood, Hem-Fir stud grade or better, spaced not more than sixteen inches on center, support no more than one ceiling and one roof, nor exceed eight feet in height for exterior walls.

(b) Studs must be placed with their wide dimension perpendicular to the wall. Not less than three studs must be installed at each corner of an exterior wall.

(c) Studs must be capped with double top plates installed to provide overlapping at corners and at intersections with other partitions. End joints in double top plates must be offset at least forty-eight inches.

(d) Studs must have full bearing on a plate or sill not less than two inches nominal in thickness having a width not less than that of the wall studs.

(2) Headers. All openings four feet wide or less in bearing walls must be provided with headers consisting of either two pieces of two-by-eight Hem-Fir #2, or better, placed on edge and securely fastened together or one piece of four-by-eight Hem-Fir #2 or better. All openings over four feet and up to eight feet wide in bearing walls must be provided with headers consisting of two pieces of two-by-twelve Hem-Fir #2 or better, placed on edge and securely fastened together, or one piece of four-by-twelve Hem-Fir #2 or better.

(3) Wall bracing. Exterior walls must be braced with one of the following methods:

(a) Wood boards of five-eighths inch net minimum thickness applied diagonally to the studs and face nailed with 2-8d common nails per stud.

(b) Minimum forty-eight inch width of wood structural panel sheathing (plywood) with a minimum thickness of three-eighths inches applied vertically at each corner. Provide solid blocking at all edges not supported by studs and secure to studs with 6d common or deformed shank nails spaced at six inches on center at edges and twelve inches on center at intermediate supports. Sheathing must extend from treated plate through double top plate.

(4) Where plumbing, heating or other pipes are placed in studs, a metal tie not less than sixteen galvanized gauge and one and one-half inches wide must be fastened to each plate across and to each side of the opening.

NEW SECTION

WAC 246-359-240 Exterior wall covering for wood framed construction. (1) All weather-exposed surfaces must have a weather resistive barrier. Such barrier must be of waterproof building paper or asphalt saturated felt. Building paper, felt, or equivalent materials must be covered with siding as a protection against damage. Weatherproof sheathing may be used to meet this requirement.

(2) When weatherproof sheathing is used for the weather resistive barrier protection, it must be of the exterior type not less than three-eighths inch thick. Joints must occur over framing members and must be protected by built-in edge laps, a continuous wood batten, caulking, flashing, or by an

equivalent material installed per the manufacturer's specifications.

(3) All wood siding and trim must be painted to protect from weather damage.

(4) Flashing. All exterior openings exposed to the weather must be flashed in such a manner as to make them weatherproof.

NEW SECTION

WAC 246-359-250 Roof framing for wood framed construction and concrete masonry units (CMU). (1) Roof framing must have a minimum slope of three units vertical to twelve units horizontal, and must be framed with one of the following methods:

(a) Factory built trusses. Installed per manufacturer's directions and spaced not more than twenty-four inches on center. Roof trusses must be supported laterally at points of bearing by solid blocking to prevent rotation and lateral displacement;

(b) Rafter spans. Allowable rafter spans for Hem-Fir #2 or better must be in accordance with the spans and load conditions listed in Tables 250-A, 250-B or 250-C;

(c) Rafters. Rafters must be framed directly opposite each other at the ridge. There must be a ridge board at least one inch nominal thickness at all ridges and not less in depth than the cut end of the rafter;

(d) Notching at the ends of rafters cannot exceed one fourth the depth. Notches in the top or bottom must not exceed one sixth the depth and must not be located in the middle one third of the span;

(e) Holes bored in rafters must not be within two inches of the top or bottom and their diameter must not exceed one third the depth of the rafter; and

(f) Rafters must be supported laterally at points of bearing by solid blocking of the same material to prevent rotation and lateral displacement.

Rafter Size	Spacing— inches on center	Span— feet- inches
2 x 6	12	12-7
2 x 6	16	11-5
2 x 6	24	9-7
2 x 8	12	16-7
2 x 8	16	14-11
2 x 8	24	12-2
2 x 10	12	21-0
2 x 10	16	18-2
2 x 10	24	14-10
2 x 12	12	24-4
2 x 12	16	21-1
2 x 12	24	17-3

Rafter Size	Spacing— inches on center	Span— feet- inches
2 x 6	12	11-5
2 x 6	16	10-5
2 x 6	24	8-7
2 x 8	12	15-1
2 x 8	16	13-4
2 x 8	24	10-10
2 x 10	12	18-9
2 x 10	16	16-3
2 x 10	24	13-3
2 x 12	12	21-9
2 x 12	16	18-10
2 x 12	24	15-5

Ceiling Joist Size	Spacing— inches on center	Span— feet- inches
2 x 8	12	13-0
2 x 8	16	11-3
2 x 8	24	9-2
2 x 10	12	15-10
2 x 10	16	13-9
2 x 10	24	11-3
2 x 12	12	18-5
2 x 12	16	15-11
2 x 12	24	13-0
2 x 14	12	20-7
2 x 14	16	17-10
2 x 14	24	14-6

(2) The department will allow site built trusses accompanied by structural calculations prepared by a structural engineer.

(3) Trimmer and header rafters must be doubled when the span of the header exceeds four feet. The ends of the header rafters more than six feet long must be supported by framing anchors or rafter hangers unless bearing on a beam, partition, or wall.

(4) Rafters must be nailed to adjacent ceiling joists to form a continuous tie between exterior walls when such joists are parallel to the rafters. Where not parallel, rafters must be nailed to minimum one-by-four cross ties.

(5) Rafter cross ties must be spaced not more than four feet on center, located immediately above the ceiling joists.

PERMANENT

(6) Rafter and truss ties must be installed per manufacturer's instructions.

(7) Roof assembly must have rafter and truss ties to the wall below and spaced not more than four feet on center.

NEW SECTION

WAC 246-359-300 Ceiling framing for wood framed construction and concrete masonry units (CMU). (1) Notching at the ends of ceiling joists must not exceed one fourth the depth. Notches in the top or bottom must not exceed one sixth the depth and must not be located in the middle one third of the span.

(2) Holes bored in ceiling joists must not be within two inches of the top or bottom and their diameter must not exceed one third the depth of the rafter.

(3) Ceiling joists must be supported laterally at points of bearing by solid blocking to prevent rotation and lateral displacement.

(4) Allowable ceiling joist spans for Hem-Fir #2 or better must be in accordance with the spans and load conditions listed in Table 300-A.

(5) The department will allow spans using other wood species or grade or other load conditions when accompanied by structural calculations prepared by a structural engineer.

Ceiling Joist Size	Spacing—inches on center	Span—feet-inches
2 x 6	12	14-5
2 x 6	16	12-8
2 x 6	24	10-4
2 x 8	12	18-6
2 x 8	16	16-0
2 x 8	24	13-1
2 x 10	12	22-7
2 x 10	16	19-7
2 x 10	24	16-0
2 x 12	12	26-3
2 x 12	16	22-8
2 x 12	24	18-6

NEW SECTION

WAC 246-359-310 Roof sheathing for wood framed construction and concrete masonry units. Roof sheathing shall be structural wood panels (plywood, OSB) with a minimum five-eighths inch thickness, grade stamped for use and span. Secure roof sheathing panels to the roof framing with 8d common nails, spaced six inches on center at the edges and twelve inches on center at intermediate supports.

NEW SECTION

WAC 246-359-320 Roof covering materials for wood framed construction and concrete masonry units (CMU). Roof sheathing must be protected by installing a material that has been designed as a roofing covering product. Installation of the selected roof covering material must be according to manufacturer's instructions and industry standards.

NEW SECTION

WAC 246-359-330 Roof framing ventilation for wood framed construction and concrete masonry units (CMU). (1) Ventilation must be provided for enclosed roof framing spaces by providing sixteen-mesh screened openings at:

- (a) The eaves;
- (b) The gable ends;
- (c) The ridge; or
- (d) Any combination of (a) through (c) of this subsection.

(2) The minimum amount of ventilation openings must be at the rate of one square foot of net free opening for every three-hundred square feet of attic area.

NEW SECTION

WAC 246-359-340 Nailing schedule wood framed construction and concrete masonry units. All nailing must be completed according to Table 340.

CONNECTION	NAILING ¹
1. Joist to sill or girder, toenail	3-8d
2. Bridging to joist, toenail each end	2-8d
3. 1" x 6" subfloor or less to each joist, face nail	2-8d
4. Wider than 1" x 6" subfloor to each joist, face nail	3-8d
5. 2" subfloor to joist or girder, blind and face nail	2-16d
6. Sole plate to joist or blocking, typical face nail	16d at 16" o.c.
Sole plate to joist or blocking, at braced wall panels	3-16d per 16"
7. Top plate to stud, end nail	2-16d
8. Stud to sole plate	4-8d, toenail or 2-16d, end nail
9. Double studs, face nail	16d at 24" o.c.
10. Doubled top plates, typical face nail	16d at 16" o.c.
Doubled top plates, lap splice	8-16d
11. Blocking between joists or rafters to top plate, toenail	3-8d
12. Rim joist to top plate, toenail	8d at 6" o.c.

PERMANENT

Table 340 Nailing Schedule	
CONNECTION	NAILING ¹
13. Top plates, laps, and intersections, face nail	2-16d
14. Continuous header, two pieces	16d at 16" o.c. along each edge
15. Ceiling joists to plate, toenail	3-8d
16. Continuous header to stud, toenail	4-8d
17. Ceiling joists, laps over partitions, face nail	3-16d
18. Ceiling joists to parallel rafters, face nail	3-16d
19. Rafter to plate, toenail	3-8d
20. 1" brace to each stud and plate, face nail	2-8d
21. 1" x 8" sheathing or less to each bearing, face nail	2-8d
22. Wider than 1" x 8" sheathing to each bearing, face nail	3-8d
23. Built-up corner studs	16d at 24" o.c.
24. Built-up girder and beams	20d at 32" o.c. at top and bottom and staggered 2-20d at ends and at each splice
25. 2" planks	2-16d at each bearing

¹ Common or boxed nails must be used.

NEW SECTION

WAC 246-359-350 Roof connections for concrete masonry units (CMU). (1) Framing members must bear on a two-inch nominal thickness pressure treated plate anchored to the CMU wall with one-half inch diameter bolts. The anchor bolts must be spaced at maximum of six feet on center and a minimum of twelve inches from end of each plate member, and must be embedded into the top of the wall bond beam a minimum of four inches.

(2) Each roof framing member must be secured to the treated plate by installation of a metal tie as approved by the department.

NEW SECTION

WAC 246-359-400 Concrete masonry unit (CMU). Buildings constructed using CMU must follow the requirements of WAC 246-359-001 through 246-359-170 and WAC 246-359-400 through 246-359-580 to comply with this chapter.

NEW SECTION

WAC 246-359-405 Concrete masonry units (CMU) materials. (1) Solid masonry units must not be used.

(2) **Water.** Water used in mortar or grout must be clean and free of deleterious amounts of acid, alkalis or organic material or other harmful substances.

(3) **Cement.** Cementitious materials for:

- (a) Grout must be either lime or portland cement; and
- (b) Mortar must be one or more of the following:

- (i) Lime;
- (ii) Masonry cement;
- (iii) Portland cement; or
- (iv) Mortar cement.

(4) **Mortar.** Mortar must consist of a mixture of cementitious materials and aggregate to which sufficient water has been added to achieve a workable, plastic consistency.

(5) **Grout.** Grout must consist of a mixture of cementitious materials and aggregate to which water has been added such that the mixture will flow without segregation of the materials.

(6) **Handling, storage and preparation of materials.** Handling, storage and preparation of materials at the site must conform to the following:

(a) Masonry materials must be stored so that at the time of use the materials are clean and structurally suitable for use.

(b) All metal reinforcement must be free from loose rust and other coatings that would inhibit reinforcing bond.

(c) Concrete masonry units must not be wetted.

(d) Mortar or grout mixed at the job site must be mixed for:

- (i) A period of time not less than three minutes; or
- (ii) More than ten minutes in a mechanical mixer with the amount of water required to provide the desired workability.

(e) Hand mixing of small amounts of mortar is permitted.

(f) Mortar may be retempered, except that mortar or grout which has hardened or stiffened due to hydration of the cement must not be retempered or used again.

(g) When water has been added to the dry ingredients, at the job site the mixed:

(i) Mortar must not be used after two and one-half hours has passed; and

(ii) Grout must not be used after one and one-half hours has passed.

(h) Mortar and grout dry mixes, blended in the factory, and mixed at the job site must be mixed in mechanical mixers until workable. The on-site mixing time must not exceed ten minutes if the mix is to be acceptable for use.

NEW SECTION

WAC 246-359-410 Foundations and footings for concrete masonry units (CMU) walls. (1) Footings for load bearing CMU walls must be continuous concrete having a minimum twelve width-by-ten inch thickness, placed a minimum eighteen inches below the finished grade, and reinforced with a minimum of two No. 4 continuous rebar.

(2) Foundations must be one of the following:

PERMANENT

(a) Concrete reinforced vertically and horizontally with No. 4 rebar at twenty-four inches on center; or

(b) CMU reinforced vertically and horizontally with No. 4 rebar and having all cells below finished grade fully grouted.

(3) Vertical reinforcement must be spaced at four feet on center, within twelve inches of each corner, extend at least twenty inches up into the CMU wall, and extend at least six inches into the footing with an additional six inches bent at ninety degrees and tied to the horizontal footing rebar.

(4) Foundations must be six inches in width or the width of the CMU wall, whichever is greater.

NEW SECTION

WAC 246-359-420 Placing of concrete masonry units (CMU). (1) CMU must be laid in a running bond pattern with the units in each successive course overlapping the joints in the course below. At corners the length of the corner unit must alternate direction on each successive course.

(2) The mortar must be sufficiently plastic and the units must be placed with sufficient pressure to extrude mortar from the joint and produce a tight joint. Joint furrowing must not exceed the thickness of the shell.

(3) Head joints of open-end CMU designed for use as bond beams that are to be fully grouted need not be mortared.

(4) Surfaces to be in contact with mortar or grout must be clean and free of deleterious materials.

NEW SECTION

WAC 246-359-430 Floors for concrete masonry units (CMU). (1) Floors must be concrete slab on grade and not less than three and one-half inches thick reinforced with "6 x 6 10/10 welded wire mesh (wwm)," and be constructed with not less than four sacks of cement per cubic yard.

(2) When concrete is used as the finished floor it must be sealed or finished according to WAC 246-359-530, interior finishes.

NEW SECTION

WAC 246-359-440 Walls of concrete masonry units (CMU). (1) **Wall thickness.** CMU blocks used for bearing walls must have a minimum nominal thickness of six inches.

(2) Rebar cover. All rebar must be:

(a) Placed within the openings of the hollow masonry units;

(b) Completely embedded in mortar or grout; and

(c) Have a minimum cover of three-fourth inch including the masonry unit. Where masonry is exposed to weather, one and one-half inches of cover is required. Where masonry is exposed to soil, two inches of cover is required.

(3) **Reinforcement.**

(a) Masonry walls must have both vertical and horizontal reinforcement. Spliced rebar must overlap at least twenty inches. Reinforcement must be placed prior to grouting. Bolts must be accurately set and held in place to prevent dislocation during grouting.

(b) Vertical reinforcement must consist of No. 4 rebar placed four feet on center along the full length of walls, on each side of window and door openings, and at corners. Vertical rebar must extend from the top of the foundation to the top of the wall and be grouted in place.

(c) Horizontal reinforcement must consist of bond beams located at four feet above the foundation and repeated at four foot intervals, including one at the top of the wall. Bond beams must be constructed using bond beam masonry units with one continuous No. 4 rebar, grouted in place.

(d) Lintels over door and window openings must be provided and must be sixteen inches deep consisting of bond beam or lintel masonry units extending over the opening and at least twenty inches beyond each side, and with four pieces of No. 4 rebar running the full length of the lintel, grouted in place. The span of lintels over openings must not exceed twelve feet.

(4) **Grouting.**

(a) The grout space must be clean so that all spaces to be filled with grout do not contain mortar projections greater than one-half inch, mortar droppings or other foreign material. Cleanouts must be provided where necessary to clean and clear the spaces prior to grouting. When cleanouts are needed, they must be sealed before grouting.

(b) Grout must be placed so that all spaces designated to be grouted must be filled with grout and the grout must be confined to those specific spaces.

(c) Where bond beams occur, the grout pour must be stopped a minimum of one-half inch below the top of the masonry.

NEW SECTION

WAC 246-359-500 Window construction requirements. (1) All habitable rooms and spaces must be provided with windows the total area of which must be not less than one-tenth of the floor area.

(2) At least one-half of each required window must be able to open for ventilation purposes.

(3) Every sleeping room must have at least one operable window or door for emergency escape or rescue directly opening to an outside area to provide a clear escape away from the building.

(4) Escape or rescue windows must have:

(a) A minimum net clear openable area of five point seven square feet; and

(b) A finished sill height not more than forty-four inches above the floor.

(c) The following minimum net clear openable dimensions:

(i) The height dimension of twenty-four inches; and

(ii) The width dimension of twenty inches.

(5) All operable window openings must be screened with sixteen-mesh material.

NEW SECTION

WAC 246-359-510 Door requirements. Temporary worker housing habitable structures:

(1) Must have a primary entrance, which is at a minimum, three foot-by-six foot eight-inch exit door made of solid core wood or other material designed for use as an exterior door.

(2) Must have at least two exit doors when accommodating ten or more occupants. When two exit doors are required, the doors must be placed a distance apart equal to at least one-half of the length of the maximum overall diagonal dimension of the building area used.

(3) Must have all exterior door openings screened with sixteen-mesh material self-closing screen doors.

(4) With a calculated occupant load of fifty occupants or more must have a screen door which swings in the direction of exiting.

(5) With latched screen doors must have a roller type latch.

NEW SECTION

WAC 246-359-520 Door landings, stairways and guardrails. (1) Door landings. Every door must have, at a minimum, a floor area or landing with:

(a) A width not less than the width of the door or the width of the stairway served, whichever is greater; and

(b) A length not less than thirty-six inches.

(2) **Stairways.** Every stairway having two or more risers must meet the following requirements:

(a) **Rise and Run.** The rise of steps and stairs must not be less than four inches nor more than eight inches. The greatest riser height within any flight of stairs must not exceed the smallest by more than three-eighths inch. The run must not be less than nine inches. Stair treads must be of uniform size and shape except the largest tread run within any flight of stairs must not exceed the smallest by more than three-eighths inch.

(b) **Headroom.** Every stairway must have a headroom clearance of not less than 6 feet eight inches.

(3) **Handrails.**

(a) At least one handrail is required when a stairway has three or more risers;

(b) The top of a handrail must be placed not less than thirty-four inches or more than thirty-eight inches above the nosing of the treads.

(c) Handrails must be continuous the full length of the stairs.

(d) The handgrip portion of a handrail must:

(i) Not be less than one and one-quarter inches nor more than two inches in cross-sectional dimension; and

(ii) Have a smooth surface with no sharp corners.

(e) Handrails projecting from a wall must have a space of not less than one and one-half inches between the wall and the handrail.

(4) **Guardrails.** Unenclosed porches, balconies, and landings, which are more than thirty inches above grade or floor below must not be less than thirty-six inches in height and must have intermediate rails spaced such that a sphere four inches in diameter cannot pass through.

NEW SECTION

WAC 246-359-530 Interior finishes. (1) Floors must be finished to provide an easily cleanable surface. Acceptable finishes are paint, sheet vinyl, tile, or other materials designed for use as a finished floor surface. All materials must be installed per manufacturer's instructions.

(2) Walls and ceilings must be finished to prevent any injury to an occupant, for example, no protruding nails or other fasteners or any wires.

(3) In toileting and kitchen areas, walls must be finished to provide an easily cleanable surface impervious to moisture.

(4) If material to provide a finished surface for the walls is to be installed, then material such as one-half inch minimum thickness gypsum board (GB) must be secured to the wall structural members by fasteners approved for such attachment such as glue, nails, or screws. If GB is installed, then the joints must be fire taped and the wall surface sealed with paint or covered with another wall finish material.

(5) If materials are installed to provide a finished surface for the ceiling, then material such as five-eighths inch minimum thickness GB must be secured to the ceiling structural members by fasteners approved for such attachment such as nails or screws. If GB is installed, then the joints must be fire taped and the ceiling surface sealed with paint.

NEW SECTION

WAC 246-359-540 Lighting and electrical. (1) The installation of electrical systems and wiring must comply with the state electrical code, chapter 246-46 WAC, as administered by the department of labor and industries and according to the number of outlets or light fixtures required in subsection (2) of this section.

(2) Outlets and light fixtures provided in temporary worker housing must comply with the requirements of subsection (1) of this section and WISHA requirements, including:

(a) Each habitable room must have:

(i) One ceiling light fixture. Additional ceiling light fixtures will be required to comply with the foot candle requirements of chapter 246-358 WAC; and

(ii) One separate floor or wall outlet. Additional outlets will be required as determined by the department to prevent safety hazards when the housing is occupied;

(b) Laundry and toilet rooms, and rooms where people congregate must have at least one ceiling or wall light fixture. Additional ceiling or wall light fixtures will be required:

(i) To comply with the foot candle requirements of chapter 246-358 WAC; and

(ii) As determined by the department to prevent safety hazards when the housing is occupied.

NEW SECTION

WAC 246-359-550 Smoke detectors. (1) Temporary worker housing must be provided with approved smoke detectors installed according to the manufacturer's instructions.

(2) Smoke detectors must:

- (a) Be installed in each sleeping room;
- (b) Be installed at a central point in a corridor or area which gives access to each separate sleeping room; and
- (c) Emit a signal when the batteries are low.
- (3) In new construction, required smoke detectors must:
 - (a) Receive their primary power from the building wiring, when the wiring is served from a commercial source; and
 - (b) Be equipped with a battery backup.
- (4) Smoke detector wiring must be permanent and without a disconnecting switch except as required for overcurrent protection.
- (5) Battery operated smoke detectors will be accepted:
 - (a) In existing buildings;
 - (b) In buildings without commercial power; or

(c) During when alteration, repairs or additions are being conducted to a building.

NEW SECTION

WAC 246-359-560 Plumbing. (1) The installation of plumbing systems, fixtures, and fittings must comply with the Uniform Plumbing Code and Uniform Plumbing Code Standards as adopted by the state building code council, chapters 51-46 and 51-47 WAC, except for the following parts of the plumbing code which do not apply:

- (a) The provisions for "water conservation performance standards";
- (b) The minimum plumbing facilities and requirements for minimum numbers of fixtures, instead the following ratios will apply:

Minimum Number of Required Plumbing Fixtures					
	Water Closets		Lavatory Sinks		Bathtubs or Showers
Dwelling Units	1		1		1
	Male	Female	Male	Female	
Shared Facilities, not in individual dwelling units.	1 per 15 or fraction thereof; with a minimum of 2. (See Note)	1 per 15 or fraction thereof; with a minimum of 2.	1 per 6 or fraction thereof.	1 per 6 or fraction thereof.	1 showerhead for every 10 persons or fraction thereof, for both male and female showers.

Note: Where urinals are provided in addition to water closets, the urinals must be provided in a 1:25 ratio.

- (2) The applicant must comply with the following WISHA requirements:
 - (a) When a toilet is in a separate building from the sleeping room, the toilet room must be at least one-hundred feet but not more than two-hundred feet from the door of each dormitory unit;
 - (b) Laundry sinks must be provided on a ratio of one to thirty;
 - (c) When handwashing sinks and bathing facilities are not provided in individual dwelling units the following ratios apply:
 - (i) Handwashing sinks must be provided on a ratio of one to every six; and
 - (ii) Bathing facilities must be provided on a ratio of one to every ten.
- (3) Water and septic systems must be approved by the jurisdiction having authority, including installation or modification.

NEW SECTION

WAC 246-359-565 Cooking facilities. (1) **Individual dwelling units.** Cooking facilities in individual dwelling units must be sufficient to meet the requirements of WAC 246-358-125, temporary worker housing cooking and foodhandling facilities;

(2) **Common use cooking facilities.** Cooking facilities separate from sleeping units and used by multiple individuals or families must:

- (a) Meet the requirements of WAC 246-358-125, temporary worker housing cooking and foodhandling facilities;

- (b) Comply with WAC 296-307-160, WISHA;
- (c) Be located within one hundred feet of the dormitory structure; and

(d) Have mechanical ventilation installed with a one hundred cubic feet per minute (CFM) intermittent fan or a twenty-five CFM continual fan, vented to the outside for each cooking unit.

(3) **Dining halls with cooking facilities.** Cooking facilities which are to be provided by the licensed operator for temporary workers residing in the temporary worker housing must comply with:

- (a) WAC 246-358-125(3), dining hall rules for temporary worker housing;
- (b) WAC 296-307-160; and
- (c) Chapter 246-215 WAC, food service sanitation rules.

NEW SECTION

WAC 246-359-570 Mechanical installations. The installation of heating, ventilating, cooling, refrigeration systems, and other miscellaneous heat producing equipment must meet the requirements of the uniform mechanical code as adopted by the state building code council, chapter 51-42 WAC, except as exempted in WAC 246-359-575.

NEW SECTION

WAC 246-359-575 Energy and ventilation and indoor air quality requirement exemptions. Temporary worker housing as defined in this chapter are exempt from all versions of the Washington state energy code and the ventilation and indoor air quality code.

PERMANENT

NEW SECTION

WAC 246-359-580 Heating and insulation. (1) When the temporary worker housing is occupied from October 1st through May 1st:

(a) Department approved heat producing equipment must:

- (i) Be available or installed; and
- (ii) Comply with WISHA and chapter 246-358 WAC.

(b) A minimum of R-11 insulating material must be used to insulate ceilings and exterior walls.

(2) When insulation is used it must be covered with material which is safe and sturdy and sufficient to protect the building occupants from the insulating material.

NEW SECTION

WAC 246-359-590 Liquid petroleum gas (LP-gas) storage tanks. Installed LP-gas, such as propane, propylene, butane, normal butane or isobutane, and butylenes, must comply with uniform fire code article 82 and uniform fire code standard 82-1.

NEW SECTION

WAC 246-359-600 Alternate construction. (1) The department will allow alternate construction to the requirements stated in WAC 246-359-200 through 246-359-440 of this chapter when the plans are designed and stamped by an engineer or architect licensed to practice in the state of Washington.

(2) Any changes in the structural design must be stamped by an engineer including:

(a) Fixed construction, which cannot be dismantled and stored. Such fixed construction must comply with the structural requirements of the state building code, for example, wind forces, seismic forces, snow load, live load, and dead load.

(b) Nonfixed construction which can be dismantled and stored for use when ice or snow exceed the snow loads stated in this chapter. Such nonfixed construction must comply with the structural requirements of the state building code, for example, wind forces, seismic forces, live load, and dead load with the exception of snow loads.

(3) To determine compliance with this section the department may require a special inspector to conduct special inspections.

NEW SECTION

WAC 246-359-700 Approval of factory assembled structures (FAS). No FAS will be approved unless the FAS has an insignia of approval installed by the manufacturer. Alterations to manufactured housing and mobile homes must be approved by the Washington state department of labor and industries.

NEW SECTION

WAC 246-359-710 Installation of factory assembled structures (FAS)—Except for manufactured homes. The

department will approve the installation of all FAS except for manufactured homes (see WAC 246-359-720) when the following requirements are met:

(1) New and relocated FAS must be installed according to the manufacturer's written instructions;

(2) If the manufacturer's written instructions are unavailable or insufficient to address safe installation the department will require installation instructions for FAS to be submitted by an engineer or architect;

(3) The department will inspect FAS installation to determine if the site is properly prepared and the FAS is anchored according to the:

- (a) Manufacturer's installation instructions; or
- (b) Design of either an engineer or an architect.

(4) The requirements stated in WAC 246-359-720 (5) through (8) apply to FAS installation.

NEW SECTION

WAC 246-359-720 Installation requirements for manufactured homes. The department will use the following criteria for approving the installation of manufactured homes:

(1) New and relocated manufactured homes must be installed according to the manufacturer's written installation instructions;

(2) If the manufacturer's installation instructions are unavailable for manufactured homes, the department will accept the following:

(a) American National Standards Institute (ANSI) A225.1, 1994 edition, section 3; or

(b) The installation instructions of an engineer or architect licensed in Washington.

(3) The department will inspect the installation to determine if the manufactured home is placed on a properly prepared site and anchored according to the:

- (a) Manufacturer's installation instructions;
- (b) ANSI A225.1, 1994 edition, section 3; or
- (c) Design of an engineer or architect licensed in Washington.

(4) The department will require, at a minimum, specific instructions be obtained from a licensed engineer or architect when a manufactured home is to be installed on a site where the specific soil bearing capacity is not addressed in the manufacturer's instructions.

(5) The department may review, at a minimum, the following installation requirements:

(a) Heat duct crossovers, except that heat duct crossovers supported above the ground by strapping or blocking to avoid standing water and to prevent compression and sharp bends to minimize stress at the connections are also accepted;

(b) Dryer vents exhausted to the exterior side of the wall or skirting, when installed; and

(c) Hot water tank pressure relief lines. These lines must be exhausted to the exterior side of the exterior wall or skirting and downward.

(6) Water lines, waste lines, gas lines and electrical systems must be installed according to the requirements of this chapter.

(7) When skirting is used the skirting must:

(a) Be made of a material suitable for ground contact including all metal fasteners which must be made of galvanized, stainless steel or other corrosion resistant material;

(b) Be recessed behind the siding or trim and attached in such a manner to prevent water from being trapped between the skirting and siding or trim; and

(c) Have vent openings located close to corners which:

(i) Provide cross-ventilation on at least two opposite sides;

(ii) Are designed to prevent the entrance of rodents by covering the vent openings with corrosion-resistant wire mesh with mesh opening of one-fourth inch in dimension; and

(iii) Have a net area of not less than one square foot for each one hundred fifty square feet of under floor area.

(8) Provide access to the under floor area of the manufactured home so that all areas under the home are available for inspection. The opening must not be less than eighteen inches by twenty-four inches. The cover must be of metal, pressure treated wood or vinyl.

NEW SECTION

WAC 246-359-730 Manufactured home installers. A manufactured home may be installed by:

(1) The applicant;

(2) A certified installer as required by WAC 296-150M-0630;

(3) An individual supervised by an on-site certified installer; or

(4) A specialty trades person, for certain aspects of installation.

NEW SECTION

WAC 246-359-740 Drain connector to factory assembled structures (FAS). (1) A FAS containing plumbing fixtures must be connected to the drain inlet by a drain connector:

(a) Approved by the department;

(b) Consisting of pipe not less than Schedule 40 with appropriate fittings and connectors; and

(c) Not less in size than the FAS outlet.

(2) The fitting connected to the drain inlet must be a directional fitting to discharge the flow into the drain inlet.

(3) A drain connector must be:

(a) Installed and maintained with a grade not less than one-fourth inch per foot;

(b) Gas-tight and no longer than necessary to make the direct connection between the mobile home outlet and drain inlet at the site.

(4) Each drain inlet must be maintained gas-tight when not in use.

NEW SECTION

WAC 246-359-750 Water connector to factory assembled structures (FAS). (1) A FAS with plumbing fixtures must be connected to the approved water service outlet by a flexible connector, such as copper tubing or other

approved material, not less than three-fourths inch interior diameter.

(2) A separate water service shutoff valve installed on the supply side at or near the water service outlet for each FAS.

NEW SECTION

WAC 246-359-760 Gas connections to factory assembled structures (FAS). (1) A FAS, when using gas for heating or cooking purposes, must be connected to the gas outlet by an approved mobile or manufactured home connector. Gas connectors must be of adequate size to supply the total demand of the connected FAS and have a maximum length of six feet.

(2) A shutoff valve controlling the flow of gas to the entire gas piping system must be:

(a) Installed for each FAS;

(b) Readily accessible;

(c) Identified as the "shutoff valve"; and

(d) Installed near the point of connection to the service piping or supply connection of the liquified petroleum gas (LP-gas) tank.

(3) The installation and size of each section of LP-gas piping is determined by the uniform mechanical code.

NEW SECTION

WAC 246-359-800 WISHA requirements affecting building temporary worker housing. (1) A separate sleeping area must be provided for the husband and wife in all family units in which one or more children over six years of age are housed.

(2) If a camp is used during cold weather, adequate heating equipment must be provided.

Note: All heating, cooking, and water heating equipment must be installed according to state and local ordinances and codes regulating installations.

NEW SECTION

WAC 246-359-990 Fees. (1) **General fee information.**

(a) The plan review fee and permit or inspection fees for:

(i) Wood framed construction and concrete masonry units will be charged based on square footage and the time required to complete the work, according to Table I, Parts A through C;

(ii) The installation of factory assembled structures will be based on Table I, Part D; and

(b) Each fee must be received before the department will:

(i) Conduct plan review of construction or installation documents;

(ii) Issue a construction permit; or

(iii) Conduct any on-site inspection.

(2) **Plan review fee for construction and installation documents.** The plan review fee is:

(a) A separate and additional fee from the construction permit fees or inspection fees;

(b) Based on the initial plan review and assumes all documents required by WAC 246-359-070, application process and WAC 246-359-080, required documents for plan review, have been submitted.

(c) An additional plan review fee will be charged as stated in Table I, Part E when:

- (i) The documents submitted are incomplete;
- (ii) Plans previously reviewed and approved have been changed;
- (iii) The department has determined, by inspection, that the approved plans were not followed during construction.

(3) **Variance requests.** Written variance requests must be accompanied by a fee as stated in Table I, Part E.

(4) **Construction permit fee, includes required inspections.** The construction permit fee:

(a) Is a separate and additional fee from the plan review fee;

(b) Includes the required inspections as stated in WAC 246-359-120 (1) through (4);

(c) Is based on the time required to conduct an inspection and assumes all of the requirements for application and plan

review as required by subsection (2) of this section have been met and the plans are approved.

(5) **Additional inspections.** When the department determines additional inspections are necessary to determine compliance with this chapter the additional inspection fee will be charged according to Table I, Part F.

(6) **Investigation inspections.** If the department finds a person has initiated building or work without a permit, a fee will be charged according to Table I, Part F for the time taken to investigate.

(7) **Special inspections.** When an applicant is building to alternate construction standards and the required inspections in this chapter are not deemed sufficient by the department to determine compliance with this chapter special inspections may be required. The applicant must pay the full cost of the special inspections. The department will notify the applicant what is required and the reasons for requiring a special inspection.

(8) The department will provide on-site technical assistance at the applicant's request. A fee will be charged according to Table I, Part G.

Table I, Fee Table

Square footage of project review		Construction plan review fee	Construction permit or inspection fee
Part A.	Up to 1000 square feet	\$330	\$550
Part B.	For each additional 100 square feet or fraction thereof	\$ 15	\$ 30
Part C.	Preapproved plans For each additional 100 square feet or fraction thereof	\$ 66	\$550
		\$ 3	\$ 30
Part D.	Factory Assembled Structures, for example, manufactured homes, park trailers, modular buildings	\$ 66	\$550
		\$ 3	\$ 30
Part E.	Additional plan reviews, conducted after initial approval; and Variance requests	\$47 per hour (two hour minimum)	
Part F.	Additional and investigation inspections	\$47 per hour (two hour minimum)	
Part G.	On-site technical assistance visits	\$47 per hour (two hour minimum)	

PERMANENT

WSR 99-03-067

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Nursing Home Administrators)

[Filed January 18, 1999, 2:18 p.m.]

Date of Adoption: January 5, 1999.

Purpose: Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-843-220 Complaints and hearing procedures and 246-843-225 Issuance of subpoenas.

Statutory Authority for Adoption: RCW 18.52.061.

Adopted under preproposal statement of inquiry filed as WSR 98-19-095 on September 23, 1998.

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 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 6, 1999

Barbara A. Hayes

Program Manager

WSR 99-03-068

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Nursing Home Administrators)

[Filed January 18, 1999, 2:19 p.m.]

Date of Adoption: January 5, 1999.

Purpose: Expedite repeal of rule because the rule is no longer necessary because of changed circumstances.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-843-200 Standards of suitability and character.

Statutory Authority for Adoption: RCW 18.52.061.

Adopted under preproposal statement of inquiry filed as WSR 98-19-094 on September 23, 1998.

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 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 6, 1999

Barbara A. Hayes

Program Manager

WSR 99-03-069

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Nursing Home Administrators)

[Filed January 18, 1999, 2:20 p.m.]

Date of Adoption: January 5, 1999.

Purpose: Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-843-060 Program manager.

Statutory Authority for Adoption: RCW 18.52.061.

Adopted under preproposal statement of inquiry filed as WSR 98-19-093 on September 23, 1998.

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 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 6, 1999

Barbara A. Hayes

Program Manager

PERMANENT

WSR 99-03-077
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Juvenile Rehabilitation Administration)
[Filed January 19, 1999, 3:36 p.m.]

Date of Adoption: January 19, 1999.

Purpose: Chapter 275-30 WAC, Juvenile parole revocation, establishes standards for the Juvenile Rehabilitation Administration (JRA) parole revocation process as authorized in RCW 13.40.210. The rules are amended to include revocation requirements associated with possession of firearms or use of deadly weapons; and to meet regulatory improvement requirements by streamlining the revocation process through the consolidation of forms, eliminating the need for unnecessary petition files, and improving clarity of procedural expectations which results in the repeal of two WACs. Form consolidation also allows development of a "parole arrest warrant" which can be more easily recognized by law enforcement.

Citation of Existing Rules Affected by this Order: Repealing WAC 275-30-050 and 275-30-080; and amending WAC 275-30-010, 275-30-030, 275-30-040, 275-30-060, and 275-30-070.

Statutory Authority for Adoption: RCW 72.01.090, 72.05.130, 13.40.210.

Adopted under notice filed as WSR 98-22-100 on November 4, 1998.

Changes Other than Editing from Proposed to Adopted Version: WAC 275-30-040 (2)(d)(e)(f) added to clarify what information is on the petition form; subsection (3) requires an "initial" copy of the petition be "provided" to the juvenile parolee, attorney, and parents/guardian (service of the petition does not occur until it is determined a hearing will be held ensuring the juvenile parolee/attorney receive the fully completed petition prior to the hearing; subsection (6) added to clarify what information the filed petition must contain, the conditions of service of the petition, and the requirement for the parent/guardian to be provided with a copy if reasonably possible. WAC 275-30-060(1) requires hearings held on nondetained parolees to be conducted no later than fourteen days after petition service; subsection (3)(a) adds "except as otherwise indicated in these rules" to comply with chapter 10-08 WAC. Chapter 275-30 WAC varies from chapter 10-08 WAC in terms of hearing timeframes and appointment of ALJs. This variance is necessary to meet statutory requirements for hearings, afford detained juvenile parolees liberty rights, and provide objective due process. WAC 275-30-070 (3)(b) added to include other provisions of RCW 13.40.210 due to potential expansion.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 2.

Effective Date of Rule: Thirty-one days after filing.

January 19, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 2709, filed 10/5/88)

WAC 275-30-010 Definitions. ~~((+))~~ **"Department"** means the department of social and health services.

~~((2))~~ **"Juvenile parole officer"** means a state employee, or person under contract to the state, whose responsibilities include supervising ~~((juveniles on parole))~~ juvenile parolees.

~~((3))~~ **"Juvenile parolee"** means a person under age twenty-one released from a juvenile ~~((correctional))~~ rehabilitation administration residential facility and placed under the supervision of a juvenile parole officer.

~~((4))~~ **"Modification of parole conditions"** means a change in the "order of parole conditions" provided by the juvenile parole officer with full knowledge of the change by the juvenile parolee.

~~((5))~~ **"Parole"** means a period of supervision following release from a juvenile ~~((correctional))~~ rehabilitation administration residential facility, during which time certain parole conditions ~~((must))~~ are to be ~~((adhered to or consequences from a predetermined list may be invoked))~~ followed.

~~((6))~~ **"Parole conditions"** mean interventions or expectations that include, but are not limited to, those listed in RCW 13.40.210, intended to facilitate the juvenile parolee's reintegration into the community and/or to reduce the likelihood of reoffending.

"Secretary" means secretary of the department of social and health services or his ~~((or))~~ her designee.

~~((7))~~ **"Violation"** means behavior by a juvenile parolee contrary to written parole conditions which may result in sanctions that include, but are not limited to, modification of parole conditions and/or confinement.

AMENDATORY SECTION (Amending Order 2709, filed 10/5/88)

WAC 275-30-030 Parole ~~((suspension,))~~ **arrest** ~~((and detention))~~ **warrant.** (1) ~~((When))~~ A juvenile parole officer ~~((believes));~~

(a) Must issue a parole arrest warrant when the juvenile parole officer has reason to believe a juvenile parolee ~~((has violated a condition of parole, the officer may issue an order of parole suspension, arrest, and detention if:~~

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~~(a) The juvenile parolee poses an imminent danger to himself or herself or other persons)) possessed a firearm or used a deadly weapon during the parole period; or~~

~~(b) ((The)) May issue a parole arrest warrant when the juvenile parole officer has reason to believe a juvenile parolee ((is unlikely to voluntarily appear at a parole revocation hearing, considering such factors as whether the juvenile parolee has failed to appear at other judicial or administrative hearings)) has violated a condition of parole, other than possession of a firearm or use of a deadly weapon.~~

~~(2) The ((order of)) parole ((suspension,)) arrest((, and detention)) warrant, on department forms, ((shall)) must include a ((complete)) statement of the nature of the violation(s) and the date ((thereof, and shall inform the juvenile parolee of his or her right to be represented by an attorney. Copies of the order of parole suspension, arrest, and detention shall be sent to the appropriate local law enforcement agencies, to the detention facility, and to the secretary)) it occurred.~~

~~(3) A juvenile parolee held in detention for an alleged violation of parole conditions is entitled((, within twenty-four hours (excluding Saturdays, Sundays, and holidays) of being placed in detention,)) to an informal hearing to determine whether there is probable cause to believe a parole violation occurred and whether continued detention pending a parole revocation hearing is necessary. The hearing ((shall)) must be:~~

~~(a) Held within twenty-four hours (excluding Saturdays, Sundays, and holidays) of being placed in detention for an alleged violation of parole conditions; and~~

~~(b) Conducted by a parole supervisor or designee not directly involved in the case. The parole supervisor or designee ((shall)) must:~~

~~(i) Interview both the juvenile parolee and ((the)) a juvenile parole ((officer suspending the parole. Immediately following the hearing, the parole supervisor or designee shall)) staff with knowledge of the alleged violation(s). If such a parole staff is unavailable, documentation of the allegation(s) may be reviewed in place of the staff interview; and~~

~~(ii) Issue a decision, immediately following the hearing, with reasons((, on department forms,)) for either releasing the juvenile parolee or authorizing continued detention. The decision must be documented on department forms. In no event shall a juvenile parolee be held in detention for an alleged violation of parole conditions longer than seventy-two hours (excluding Saturdays, Sundays, and holidays) without a parole revocation petition being filed pursuant to WAC 275-30-040.~~

AMENDATORY SECTION (Amending Order 2709, filed 10/5/88)

WAC 275-30-040 Parole revocation petition. (1) ((If a)) The juvenile parole officer ((believes a)) :

(a) Must initiate a parole revocation petition if the juvenile parole officer has reason to believe the juvenile parolee ((has violated a condition of parole, the juvenile parole officer may file a parole revocation petition)) possessed a firearm or used a deadly weapon during the parole period; or

(b) May initiate a parole revocation petition if the juvenile parole officer has reason to believe the juvenile parolee has violated a condition of parole, other than possession of a firearm or use of a deadly weapon.

(2) The petition, on department forms, ((shall)) must include ((the following)):

(a) A statement of the nature of the violation and the date ((thereof)) it occurred;

(b) The ((number of days of confinement sought)) relief requested by the juvenile parole officer as a result of the violation;

(c) ((Notice of the time, date, and location of the parole revocation hearing; and

(d)) Notice of the juvenile parolee's right to be represented by an attorney, either one of his ((or)) her own choosing or one appointed at public expense;

(d) A parole revocation hearing waiver agreement;

(e) The dated signature of the regional administrator or designee; and

(f) If the parole revocation hearing is not waived, notice of the time, date, and location of the parole revocation hearing and notice that failure to appear may result in default.

~~((2) The parole revocation petition shall be filed with the local office of the state office of administrative hearings. A))~~

~~(3) An initial copy of the petition ((shall be served either personally or by certified mail, return receipt requested, on)) that includes the information described in subsection (2)(a) through (e) must:~~

~~(a) Be provided to the juvenile parolee or the juvenile parolee's attorney((, and on the juvenile parolee's parents or guardian. Another copy shall be filed with the secretary)); and~~

~~(b) Be provided to the juvenile parolee's parent/guardian, if reasonably possible. The juvenile parole officer must document the date and time he/she provided the initial copy of the petition to the juvenile parolee or the juvenile parolee's attorney.~~

~~(4) A juvenile parolee, only through an attorney, may waive the right to a parole revocation hearing and agree to the parole revocation and agreed upon relief. The decision to waive must be documented with dated signatures on the original petition.~~

~~(5) If the juvenile parolee through his/her attorney does not waive the right to a hearing, the parole revocation petition must be filed with the local office of the state office of administrative hearings within seventy-two hours (excluding Saturdays, Sundays, and holidays) of:~~

~~(a) The juvenile parolee being placed in detention for an alleged violation of parole conditions; or~~

~~(b) The juvenile parolee or his/her attorney being provided with a copy of the petition under subsection (3) of this section if the juvenile parolee is not detained.~~

~~(6) The filed petition must include notice that failure to appear may result in default, and the time, date, and location of the parole revocation hearing, as determined by the state office of administrative hearings. A copy of the filed petition must:~~

(a) Be served either personally or by certified mail, return receipt requested, on the juvenile parolee or the juvenile parolee's attorney; and

(b) Be provided to the juvenile parolee's parent/guardian, if reasonably possible.

AMENDATORY SECTION (Amending Order 3091, filed 11/6/90, effective 12/7/90)

WAC 275-30-060 Parole revocation hearing. (1) ~~((Unless waived by the juvenile parolee, the department shall initiate))~~ After the petition is filed a parole revocation hearing ((on every parole revocation petition for determining)) must be held to determine whether the alleged parole violation occurred unless the juvenile parolee waives his/her right to a parole revocation hearing. If the juvenile parolee is held in detention as described under WAC 275-30-030, the administrative law judge ~~((shall))~~ must hold the hearing within seventy-two hours (excluding Saturdays, Sundays, and holidays) of ~~((service of))~~ the petition being served. Otherwise the administrative law judge ~~((shall))~~ must hold a hearing no sooner than seven days after ~~((service of))~~ the petition is served, but no later than fourteen days after the petition is served.

(2) At the parole revocation hearing, the juvenile may waive ~~((his or her))~~ the right to be represented by an attorney. A juvenile waiving the right to an attorney may either contest or agree to the parole revocation.

(3) The administrative law judge ~~((shall))~~ must:

(a) Conduct a parole revocation hearing in accordance with chapter 10-08 WAC ((a parole revocation hearing. The administrative law judge shall)) except as otherwise indicated in these rules;

(b) Grant the parole revocation petition if the administrative law judge finds, by a preponderance of the evidence, the violation occurred and the violation warrants revocation((-);

(c) Order the relief requested in the petition, if the parole revocation petition is granted((-, the administrative law judge shall order the period of confinement requested in the petition;

~~((4) The administrative law judge shall);~~

(d) Issue an oral decision immediately following the parole revocation hearing((- Within forty-eight hours of the hearing, the administrative law judge shall);

(e) Issue a written decision((- The decision shall constitute a final administrative decision. The administrative law judge shall)) within forty-eight hours of the hearing; and

(f) Provide a copy of the decision to the juvenile parole officer, the juvenile parolee and his ((or))her attorney, the juvenile parolee's parent((s or))guardian, and the department. The administrative law judge's decision shall constitute a final administrative decision.

AMENDATORY SECTION (Amending Order 3091, filed 11/6/90, effective 12/7/90)

WAC 275-30-070 Confinement. (1) A juvenile's confinement for violating one or more conditions of parole, as alleged in a parole revocation petition, may not exceed thirty days. Confinement may be continuous, or for a portion of

each day, or for certain days each week with the balance of time under supervision. The department ~~((shall))~~ must give the juvenile credit against any period of confinement for days served in detention pending a parole revocation hearing. The juvenile ~~((shall))~~ must serve his or her confinement in a county detention facility ~~((unless otherwise ordered by the secretary))~~ as defined in RCW 13.40.020, a juvenile rehabilitation administration facility, or, if the juvenile parolee is eighteen years old or older, the juvenile may serve his or her confinement in a county jail.

(2) If a juvenile's parole is revoked two or more times during one parole period, the secretary ~~((shall))~~ or designee must approve any period of confinement exceeding a combined total of thirty days.

(3) Instead of confinement under subsection (1) of this section, the secretary or designee may return the offender to confinement in an institution for the remainder of the sentence range if;

(a) The offense for which the offender was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined under RCW 9.94A.030; or

(b) As otherwise authorized in RCW 13.40.210.

(4) Unless conditions of parole are otherwise amended, the order of parole conditions in effect at the time the parole was revoked shall be deemed reinstated immediately following any period of confinement.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 275-30-050 Waiver of hearing.

WAC 275-30-080 Reinstatement of parole.

WSR 99-03-103

PERMANENT RULES

GAMBLING COMMISSION

[Order 370—Filed January 20, 1999, 11:10 a.m.]

Date of Adoption: January 15, 1999.

Purpose: A study will be conducted to determine if the net return requirements for charitable/nonprofit licensees should be reduced. By placing a temporary moratorium for complying with the net return requirements during the study period bingo operators who meet the moratorium requirements will not have their license class limited, allowing them to continue their operations at current levels.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 98-24-087 on December 1, 1998, with a publication of December 16, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

PERMANENT

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 20, 1999

Susan Arland

Public Information Officer

(5) The moratorium as set forth in this section applies to licensees with measurement periods ending December 31, 1998, and thereafter to the end of the moratorium. The moratorium will conclude February 29, 2000, or on such date to be determined by the commission. The moratorium applies only to those licensees meeting the requirements set forth in subsection (1) of this section. It does not apply to any other licensee requirements.

NEW SECTION

WAC 230-20-058 Temporary moratorium for complying with net return requirements. In order to study the possible impacts of factors beyond a charitable/nonprofit licensee's control, which may affect its ability to meet net return requirements and requirements set forth in WAC 230-20-059, the commission imposes a moratorium on the mandatory license class reduction requirement of WAC 230-20-062 and the variance requirement of WAC 230-20-060, as set forth below:

(1) Any charitable/nonprofit licensee that fulfills the following requirements shall be allowed to operate at its current bingo license class if:

(a) The licensee informs the commission in writing that:

(i) It meets the requirements of this section;

(ii) It wishes to participate in the study; and

(iii) It outlines the steps it is taking to meet its license class requirements;

(b) The licensee is within five percent of the annual net return requirements for its license class during its measurement period ending on or after December 31, 1998, to the end of the moratorium; and

(c) Licensees operating at license class levels that provide for an annual minimum net return below five percent as set out in WAC 230-20-059 shall be required to maintain a positive cash flow as defined in WAC 230-02-138 for the measurement period.

(2) Licensees not fulfilling the requirements outlined in subsection (1) of this section are subject to penalties and reductions in license class as set forth in WAC 230-20-062 (3) and (4), respectively.

(3) A licensee that does not fall within five percent of its net return requirements will receive a "notice of license limitation" and may petition the commission for additional relief from the requirements.

(4) If any licensee requests an upgrade pursuant to WAC 230-04-260, the percentages set forth in WAC 230-20-059 less five percentage points would apply. However, the licensee must maintain a positive cash flow as defined in WAC 230-02-138 for the measurement period.



WSR 99-03-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-01—Filed January 8, 1999, 8:09 a.m.]

Date of Adoption: January 7, 1999.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-44-080.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These regulations are necessary to achieve conservation goals and to maintain consistency between state and federal regulations. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 7, 1999

J.P. Koenings

Director

NEW SECTION

WAC 220-44-08000A Otter trawl logbook required.

Notwithstanding the provisions of WAC 220-44-080, effective immediately until further notice, it shall be unlawful for any operator of otter trawl gear to fail to possess and maintain a "Washington-Oregon-California Trawl Logbook" while fishing in Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, and 63. The logbook must be kept aboard the vessel while it is fishing in the above areas, or while having fish aboard that were caught in the above areas. The vessel operator must submit the completed logbook for inspection immediately upon request by authorized department of Fish and Wildlife representatives. For each vessel trip, the operator shall record the vessel name and registration number, crew size, fuel used, departure and return date and time, general locality fished and buyers of fish landed. For each trawl

tow conducted, the vessel operator shall record the month and day, duration of tow, area fished, depth fished, net type, target species, and estimated weight of each species of fish retained. The department's copies of completed log sheets must be submitted to the department for each month in which fishing activity occurs. The department's copies must be received within ten days following any calendar month in which fishing activity occurred, or within ten days following the termination of commercial fishing activity, whichever comes first.

WSR 99-03-012

EMERGENCY RULES

WESTERN WASHINGTON UNIVERSITY

[Filed January 8, 1999, 11:06 a.m.]

Date of Adoption: June 9, 1998.

Purpose: Changes in these rules are to provide for enforcement of these regulations as infractions within the university administrative structure rather than as criminal offenses in district court.

Citation of Existing Rules Affected by this Order:
 Amending WAC 516-13-090 and 516-15-050.

Statutory Authority for Adoption: RCW 28B.35.120(12).

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 university academic year is underway and it is important to treat all students and others consistently from the beginning of the academic year to avoid confusion and everyone being equally treated under 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 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Effective Date of Rule: Immediately.

January 7, 1999

Gloria A. McDonald

Rules Coordinator

EMERGENCY

AMENDATORY SECTION (Amending WSR 96-24-016, filed 11/22/96, effective 1/1/97)

WAC 516-13-090 Enforcement. A bicycle rider who refuses to abide by these regulations ~~((will be asked to leave the campus. A person who refuses to obey the request is subject to being cited for criminal trespass under the provisions of chapter 9A.52 RCW. If a student refuses to abide by these regulations, a proceeding may be initiated under chapter 516-23 WAC, the Student Rights and Responsibilities Code. Enforcement described in this chapter does not preclude other established university disciplinary procedures))~~ set forth under WAC 516-13 may be issued a university notice of infraction (NOI) for one or more of the following infractions:

- (1) Failure to yield right of way to pedestrian;
- (2) Failure to stay in control of bicycle;
- (3) Failure to obey dismount policy;
- (4) Riding on lawn or other restricted area;
- (5) Failure to use due care and caution.

Penalties: The penalties for violating any part of this section shall be progressive, with the monetary penalty increasing for each subsequent offense regardless of the nature of the previous offense(s). The first violation shall have a monetary penalty of ten dollars. A second violation shall have a monetary penalty of twenty-five dollars. A third and each subsequent violation shall have a monetary penalty of fifty dollars.

Any bicycle rider who violates any portion of this section and as a result is involved in a collision with a pedestrian or an object shall have the monetary penalty for the offense(s) doubled.

Any bicycle rider who attempts to elude a uniformed police officer attempting to enforce these regulations shall have the monetary penalty for the offense(s) doubled.

Chapter 516-13 WAC notwithstanding, bicycle riders remain subject to enforcement of applicable city and state traffic laws while riding upon public roadways or sidewalks.

A bicycle rider who refuses to cooperate with a police officer or to present proof of identification will be subject to arrest for obstructing a law enforcement officer under the provisions of chapter 9A.76 RCW and/or criminal trespass under the provisions of chapter 9A.52 RCW.

Appeal procedure. A university notice of infraction (NOI) may be appealed by filing a completed appeal form at the parking services office within seven days of receipt of the notice of infraction; otherwise, the right to a hearing is forfeited.

Distribution of funds collected from monetary penalties. Moneys collected for violations of chapter 516-13 WAC shall be applied towards the cost of enforcing this section. Moneys received in excess of these costs shall be applied towards bicycle-related projects, including bicycle parking, bicycle pathways and safe bicycling education.

AMENDATORY SECTION (Amending WSR 96-24-015, filed 11/22/96, effective 1/1/97)

WAC 516-15-050 Enforcement. A person using a skateboard, coaster, in-line skates, toy vehicle, or similar device who refuses to abide by ~~((these))~~ the rules and regula-

~~tions ((will be asked to leave the campus. Refusal to obey will subject the person to being cited for trespass under the provisions of chapter 9A.52 RCW.~~

~~If the user is a student, the student will be asked to remove the skateboard, coaster, in-line skates, toy vehicle, or other similar device from use on campus. If the student refuses, a proceeding may be initiated under chapter 516-22 WAC, the student rights and responsibilities code))~~ set forth under chapter 516-15 WAC may be issued a university notice of infraction (NOI) for using a skateboard, coaster, in-line skates, toy vehicle, or similar device on campus in an area not designated for such use.

Penalties: The penalties for violating any part of this section shall be progressive, with the monetary penalty increasing for each subsequent offense. The first violation shall have a monetary penalty of ten dollars. A second violation shall have a monetary penalty of fifty dollars.

Any person who violates any portion of this section and as a result is involved in a collision with a pedestrian or an object shall have the monetary penalty for the offense doubled.

Any person using a skateboard, coaster, in-line skates, toy vehicle, or similar device who attempts to elude a uniformed police officer attempting to enforce these regulations shall have the monetary penalty for the offense doubled.

Appeal procedure. A university notice of infraction (NOI) may be appealed by filing a completed appeal form at the parking services office within seven days of receipt of the notice of infraction; otherwise, the right to a hearing is forfeited.

WSR 99-03-054

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 99-03—Filed January 16, 1999, 11:25 a.m.]

Date of Adoption: January 14, 1999.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-07300J; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea urchins exist in the areas described. Prohibition of all diving within two days of scheduled green sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 14, 1999

Jeff P. Koenings

Director

NEW SECTION

WAC 220-52-07300K Sea urchins Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Green sea urchins: Sea Urchin Districts 3 and 4 are open only on Mondays, Tuesdays, and Wednesdays of each week. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

(2) It is unlawful to dive for any purpose from a commercially-licensed fishing vessel, except vessels actively fishing geoducks under contract with the Washington Department of Natural Resources, on Saturdays and Sundays of each week.

(3) All shellfish diver gear rules in WAC 220-52-073 remain in effect.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07300J Sea urchins. (98-262)

EMERGENCY



WSR 99-03-013
NOTICE OF PUBLIC MEETINGS
CRIMINAL JUSTICE
TRAINING COMMISSION
 [Memorandum—January 6, 1999]

COMMISSION MEETING DATES FOR 1999

At the December 9, 1998, meeting of the commission, the dates set for meeting in 1999 were established as:

- Wednesday, March 10, 1999
- Wednesday, June 9, 1999
- Wednesday, September 8, 1999
- Wednesday, December 8, 1999

The commission will be meeting at the Washington State Training and Conference Center located at 19010 First Avenue South, Seattle, WA 98148.

If you have any questions or require further information, please contact (206) 439-3740, ext. 237.

WSR 99-03-015
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
 [Memorandum—January 1, 1999]

EDMONDS COMMUNITY COLLEGE
 BOARD OF TRUSTEES
 NOTICE OF SPECIAL MEETINGS
 TO MEDIA/OTHER
REVISED

January 4, 1999, VIP Social. EdCC, Triton Union Building, Room 202, 20000 68th Avenue West, Lynnwood, WA, 12:00 - 1:30 p.m. *Purpose: Formal greeting of new students.*

January 20, 1999, Library Opening. Evening Reception and Art Gallery, EdCC, Lynnwood Hall, Third Floor, 6:00 - 8:00 p.m.

January 21, 1999*, Edmonds Community College Board of Trustees Regular Board Meeting. EdCC, Snohomish Hall, Cascade Conference Room 304A, 20000 68th Avenue West, Lynnwood, WA, 3:00 p.m. *Purpose: To address routine college business issues.*

* This event is being rescheduled as a special board meeting, beginning at 3:00 p.m. instead of 4:00 p.m.

WSR 99-03-016
AGENDA
UNIVERSITY OF WASHINGTON
 [Filed January 8, 1999, 11:17 a.m.]

The University of Washington's
Semiannual Agenda for Rules Under Development

(Per RCW 34.05.314)
January 1999

1. Chapter 478-210 WAC, Thomas Burke Memorial Washington State Museum. Rule review per Executive Order 97-02 was completed in 1998. A CR-101XR has been filed for expedited repeal and the chapter is scheduled for repeal in the first half of 1999.

2. Chapter 478-140 WAC, Rules and regulations for the University of Washington governing disclosure of student records. A CR-101 has been filed for rule making and the chapter is scheduled for adoption in the first half of 1999.

3. Chapter 478-324 WAC, Rules and regulations for the University of Washington implementation of the State Environmental Policy Act. Rule review per Executive Order 97-02 has been extended through the first half of 1999.

4. Chapter 478-108 WAC, Practice and procedure. Rule review per Executive Order 97-02 is scheduled for the first half of 1999.

5. Chapter 478-124 WAC, General conduct code for the University of Washington. Rule review per Executive Order 97-02 is scheduled for the first half of 1999.

6. Chapter 478-132 WAC, Academic calendar for the University of Washington. Rule review per Executive Order 97-02 was completed in 1998. This chapter is scheduled for rule making in the second half of 1999.

For more information concerning the above rules under development contact: Rebecca Goodwin Deardorff, Administrative Procedures Officer, University of Washington, 4014 University Way N.E., Seattle, WA 98105-6302, campus mail Box 355509, phone (206) 543-9199, or e-mail adminpro@u.washington.edu.

WSR 99-03-017
NOTICE OF PUBLIC MEETINGS
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS
 [Memorandum—January 4, 1999]

Listed below are the dates and locations for the 1999 regularly scheduled meeting of the Washington Board of Registration for Professional Engineers and Land Surveyors.

1999 WASHINGTON BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS	MEETING LOCATION
January 13-14, 1999	SeaTac, Washington
February 17, 1999 (Practice Committee only)	SeaTac, Washington
March 17-18, 1999	Olympia, Washington
May 5-6, 1999	SeaTac, Washington
June 23-24, 1999	SeaTac, Washington
July 14, 1999 (Practice Committee only)	SeaTac, Washington

MISC.

August 18-19, 1999	SeaTac, Washington
September 29-30, 1999	SeaTac, Washington
November 17-18, 1999	SeaTac, Washington
December 15, 1999 (Practice Committee only)	SeaTac, Washington

- May 20, 1999
- June 17, 1999
- July 15, 1999
- August 19, 1999
- September 16, 1999
- October 21, 1999
- November 18, 1999
- December 16, 1999

Administrative services provided by the Department of Licensing which has a policy of providing equal access to its services. If you need special accommodation, please call (360) 753-6966 or TDD (360) 586-2788.

*The January 21, 1999 meeting will take place from 1:00 p.m. - 5:00 p.m.

WSR 99-03-018

**NOTICE OF PUBLIC MEETINGS
HEALTH CARE AUTHORITY
(Public Employees Benefits Board)**
[Memorandum—January 8, 1999]

Public Employees Benefits Board
Lacey/Woodland Community Center
Lacey, Washington
1:00 p.m., January 12, 1999

If you are a person with a disability and need a special accommodation, please contact Judy Lamm at (360) 923-2828.

WSR 99-03-019

**NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER**
[Memorandum—January 6, 1999]

A regular meeting of the WSCTC board of directors will be held on Wednesday, January 13, 1999, at 1:30 p.m. in Room 310 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

WSR 99-03-020

**NOTICE OF PUBLIC MEETINGS
SPOKANE INTERCOLLEGIATE
RESEARCH AND TECHNOLOGY INSTITUTE**
[Memorandum—January 8, 1999]

1999 SIRTI Board Meeting Dates

Unless otherwise indicated, all SIRTI board meetings occur from 3:00 p.m. - 5:00 p.m. on the dates shown below:

- January 21, 1999*
- February 18, 1999
- March 18, 1999
- April 15, 1999

WSR 99-03-021

**AGENDA
JAIL INDUSTRIES BOARD**
[Filed January 8, 1999, 11:53 a.m.]

**Jail Industries Board Rule-Making Semi-Annual 1999
Agenda**

The board anticipates rule-making activity on the following items:

New WAC. Purpose: Establish an arbitration process for resolving conflicts arising among the local business community and labor organizations concerning new industries programs, products, services, or wages.

Jill Will
Executive Director

WSR 99-03-022

**NOTICE OF PUBLIC MEETINGS
JAIL INDUSTRIES BOARD**
[Memorandum—January 8, 1999]

1999 BOARD MEETING SCHEDULE

The Jail Industries Board has established its regular board meeting schedule for 1999 as follows:

January 21	Criminal Justice Training Center	Burien
March 18	Washington Counties Building	Olympia
May 20	Criminal Justice Training Center	Burien
July 15	Yakima County Department of Corrections	Yakima
September 16	King County Regional Justice Center	Kent
November 18	Washington Counties Building	Olympia

All regular meetings run from 10:00 a.m. to 3:00 p.m. For further information, please contact Jill Will, Executive Director, Jail Industries Board, 206 Tenth Avenue S.E., Olympia, WA 98501-1311, phone (360) 586-1534, e-mail jwill@wacounties.org.

MISC.

WSR 99-03-023
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION IMPROVEMENT BOARD
 [Memorandum—January 4, 1999]

MEETING NOTICE FOR JANUARY 1999
 TRANSPORTATION IMPROVEMENT BOARD
 RENTON, WASHINGTON

Sidewalk Committee, 1:00 p.m. - 2:00 p.m., Thursday, January 21, 1999, at the Holiday Inn Select, Spruce Room, One South Grady Way, Renton. Committee Members: Karen Haines - Chair, Paula Hammond, Dave O'Connell, Allen Schweim, Arnold Tomac, Mark Urdahl, and Jim White.

Increase Subcommittee, 2:00 p.m. - 5:00 p.m., Thursday, January 21, 1999, at the Holiday Inn Select, Spruce Room. Committee Members: John Trent - Chair, John Akers, Leo Bowman, Dan DiGuilio, Daryl Grigsby, Karen Haines, Dennis Ingham, Daryl Jackson, Michael Knapp, Tina Roberts, and Allen Schweim.

Work Session, 7:00 p.m., Thursday, January 21, 1999, at the Holiday Inn Select, Spruce Room.

Board Meeting, 9:00 a.m., Friday, January 22, 1999, at the Holiday Inn Select, Spruce Room.

Special Needs: For special accommodations or to request an auxiliary aid, please contact the TIB office at (360) 705-7300 by January 15, 1999.

The next scheduled meeting is March 26, 1999, in Olympia. A notice with further detail of the March meeting will be mailed March 5, 1999.

WSR 99-03-024
NOTICE OF PUBLIC MEETINGS
CENTER FOR
INFORMATION SERVICES
 [Memorandum—January 4, 1999]

Notice of Public Meetings
 Executive Committee Meetings

Meetings scheduled at this time:

- CIS Executive Committee Meeting 9:00-11:00, January 28
Centralia Community College
- CIS Executive Committee Meeting 9:00-11:00, February 25
SBCTC
- CIS Executive Committee Meeting 9:00-11:00, March 25
South Puget Sound
Community College
- CIS Executive Committee Meeting 9:00-11:00, April 29
Tacoma Community College
- CIS Executive Committee Meeting 9:00-11:00, May 27
Yakima Valley College
- CIS Executive Committee Meeting 9:00-11:00, June 24
Bellingham Technical College

These meetings are scheduled as part of WACTC. We have not received notice of WACTC meetings beyond June. Meetings scheduled for remaining months in 1999 will be sent to Office of Code Reviser when the schedule is received.

WSR 99-03-027
AGENDA
DEPARTMENT OF LICENSING

[Filed January 12, 1999, 10:15 a.m.]

DEPARTMENT OF LICENSING
RULE-MAKING AGENDA FOR RULES UNDER DEVELOPMENT
JANUARY 1999

CR-101	CR-102	PROGRAM	SUBJECT
96-12-078		Engineers	Implementation of chapter 293, Laws of 1996 requiring the suspension of professional license/certification for default on federal/state guaranteed student loans.
95-17-080		Title & Registration	Procedure for titling vehicles in the name of a guardian.
96-20-005		Engineers	Expanding the board's use of brief adjudicative proceedings as provided for in RCW 34.05.482 - [34.05.]494.
96-19-036		Fuel Tax	Provide for administrative procedures for trust fund accountability assessment for motor fuel, special fuel and aircraft fuel taxes and clarifies assessment appeal process for additional taxes, delinquent taxes and penalty and interest assessments for motor fuel.
97-06-082		Title & Registration	Confidential vehicle license plate applications and procedures.
97-06-081		Title & Registration	Confidential vessel registration applications and procedures.
97-09-083		Real Estate Appraiser	Increase real estate appraiser application certification, and renewal fees to defray costs of administering the real estate appraiser program.

MISC.

CR-101	CR-102	PROGRAM	SUBJECT
97-11-002		Driver Responsibility	Procedural rules regarding the revocation and restoration of driving privileges of those forced to be a habitual traffic offender under chapter 46.65 RCW, including rules regarding the right to a hearing.
97-12-026	97-21-056	Title & Registration	Chapter 308-93 WAC, Vessel registration and certificate of title.
97-15-037		Vehicle Dealers	Change in vehicle dealer temporary permit requirements.
97-13-079		Professional Athletics	Establish new rules for the regulation of professional boxing, wrestling, kickboxing and martial arts.
97-20-057		Title & Registration	To clarify the requirements to renew a disabled parking privilege in WAC 308-96A-340. Relocate wording from WAC 308-96A-315 into WAC 308-96A-340 that address temporary disabled person parking placards. Create a new section in chapter 308-96A WAC which clarifies the return of individual disabled person parking placards and disabled person parking license plates when the privilege is no longer valid.
98-06-046	98-14-043	Architects	Addition of the definition for "structured intern training program" that was added to RCW 18.08.350 (3)(a) and (b) during the 1007 [1997] legislature.
98-09-077		Bail Bond Agents	Rule revisions on this subject are needed to better meet the intention of the law and to clarify the procedures provided in the rules.
98-09-079		Boxing	Rule revisions on this subject are needed to clarify processes and procedures.
98-11-038		Funeral	Reinstatement of license or registration following suspension for failure to comply with a support order under chapter 74.20 RCW or a residential or visitation order under chapter 26.09 RCW.
98-13-003	98-18-059	Prorate and Fuel Tax	Administration and collection of motor vehicle fuel and special fuel excise taxes. Chapter 308-72 WAC, Motor vehicle fuel tax and chapter 308-77 WAC, Special fuel tax rules and regulations.
98-13-071	98-22-003	Real Estate	Pursuant to the Real Estate Commission rules review plan in accordance with the governor's executive order on regulatory improvement, the following rule chapters will be subject to review, possible amendment or repeal: Chapters 308-124, 308-124B, and 308-124F WAC.
98-14-057	98-23-074	UCC	Establish rules and fees for sale of microfilm, magnetic tape, and other information obtained from the UCC filing office; amend rules to include fee increase for filings, searches, and on-line access; review current rules for applicable amendments/deletions.
98-16-072	99-02-012	Title & Registration	Chapter 308-93 WAC, Vessel registration and certificate of title, to include but not limited to WAC 308-93-520, 308-93-530, 308-93-540, 308-93-550, 308-93-560, 308-93-570, 308-93-580, 308-93-590, and 308-93-600.
98-16-073		Title & Registration	Chapter 308-96A WAC, Vehicle licensing, including but not limited to WAC 308-96A-205, 308-96A-206, and 308-96A-220.

MISC.

CR-101	CR-102	PROGRAM	SUBJECT
98-16-071	99-01-140	Title & Registration	Chapter 308-56A WAC, Certificate of title—Motor vehicles etc., to include but not limited to WAC 308-56A-335, 308-56A-340, 308-56A-345, 308-56A-350, 308-56A-355, 308-56A-360, and 308-56A-365.
98-16-074	99-01-139	Title & Registration	Chapter 308-96A WAC, Vehicle licensing, including but not limited to WAC 308-96A-100, 308-96A-105, 308-96A-106, 308-96A-110, 308-96A-120, 308-96A-135, 308-96A-136, and 308-96A-145.
98-19-085	98-23-025	Appraisers	Increase real estate appraiser application, certification, and renewal fees to defray costs of administering the real estate appraiser program.
98-20-032	98-24-044	Appraisers	Incorporation by reference of the 1999 edition of the Uniform Standards of Professional Appraisal Practice, the generally recognized national organized standards of real estate appraisal.
98-22-031		Title & Registration	Chapter 308-93 WAC, Vessel registration and certificate of title, to include but not limited to WAC 308-93-370, 308-93-380, 308-93-390, 308-93-400, 308-93-490, 308-93-500, and 308-93-510.
98-22-030		Title & Registration	Chapter 308-56A WAC, Certificate of title—Motor vehicles, etc., to include but not limited to WAC 308-56A-250, 308-56A-255, 308-56A-265, 308-56A-270, 308-56A-275, 308-56A-280, and 308-56A-285.
98-23-077	99-02-052	Drivers	Providing for the extension of driver's license for individuals who are out of state unable to renew driver's license when it expires and setting out the procedure whereby they may apply for extension.
98-24-003		Title & Registration	Chapter 308-56A WAC, Certificate of title—Motor vehicles etc., to include but not limited to WAC 308-56A-140, 308-56A-145, 308-56A-150, 308-56A-160, 308-56A-200, 308-56A-205, 308-56A-210, and 308-56A-215.
98-24-004		Title & Registration	Chapter 308-93 WAC, Vessel registration and certificate of title, including but not limited to WAC 308-93-030, 308-93-040, 308-93-079, 308-93-090, 308-93-100, 308-93-160, and 308-93-340.
98-24-005		Title & Registration	Chapter 308-96A WAC, Vehicle licensing, including but not limited to WAC 308-96A-161, 308-96A-162, 308-96A-275, 308-96A-400, 308-96A-410, 308-96A-415, and 308-96A-420.
98-24-006		Title & Registration	Chapter 308-56A WAC, Certificate of title—Motor vehicles etc., to include but not limited to WAC 308-56A-065, 308-56A-070, and 308-56A-075.
98-24-007		Title & Registration	Chapter 308-56A WAC, Certificate of title—Motor vehicles etc., to include but not limited to WAC 308-56A-300, 308-56A-305, 308-56A-310, 308-56A-315, 308-56A-320, 308-56A-325, and 308-56A-330.
98-23-048		Appraisers	Establish the minimum hours for appraisal courses and seminars taken for continuing education for license renewal.
99-01-001		Architects	Renewal period for architect licenses; procedures for reinstatement of registrants who fail to pay a renewal fee for a period of five years; procedures for reinstatement of registrants after a withdrawal of more than five years; and architect fees.

MISC.

CR-101	CR-102	PROGRAM	SUBJECT
	99-01-143	Drivers	Updates the Washington Model Traffic Ordinance to incorporate legislative changes made by the 1998 legislature.

Walt Fahrer
Rules Coordinator

WSR 99-03-028
PROCLAMATION
OFFICE OF THE GOVERNOR
[January 12, 1999]

STATE OF EMERGENCY

WHEREAS, a series of extremely wet weather systems deposited record amounts of rain upon portions of western Washington in November and December 1998;

WHEREAS, the excessive water has undermined roads; damaged state ferry facilities; and caused multiple landslides that have closed primary state highways in Snohomish, Whatcom, King, Mason, Lewis, Thurston, Pacific, and Grays Harbor Counties;

WHEREAS, the Washington State Department of Transportation is coordinating resources to repair and clear roadways of debris to alleviate the immediate impacts upon the infrastructure, and is continuing to assess the magnitude of these events;

NOW, THEREFORE, I Gary Locke, Governor of the state of Washington, as a result of the aforementioned situation and under RCW 38.08, 38.52 and 43.06, do hereby proclaim that a state of emergency exists in Snohomish, Whatcom, King, Mason, Lewis, Thurston, Pacific, and Grays Harbor Counties, and direct the implementation of the supporting plans and procedures of the *Washington State Comprehensive Emergency Management Plan*. State agencies and departments are directed to utilize state resources and to do everything possible to assist the affected political subdivisions in an effort to respond to and recover from the events. The Washington State Department of Transportation is instructed to coordinate all event-related assistance to the affected areas.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia, this 12th day of January, A.D., Nineteen hundred and ninety-nine.

Gary Locke
Governor of Washington

BY THE GOVERNOR:
Ralph Munro
Secretary of State

WSR 99-03-034
NOTICE OF PUBLIC MEETINGS
OFFICE OF FINANCIAL MANAGEMENT
(Task Force on Agency Vendor Contracting Practices)
[Memorandum—January 13, 1999]

REVISED MEETING LOCATIONS

The Task Force on Agency Vendor Contracting Practices has established the following schedule of regular meetings for 1999:

Date	Time	Meeting Location
January 12, 1999	12:00 noon	Olympia (exact location to be determined)
February 9, 1999	12:00 noon	Room 402 General Administration Building 11th and Columbia Street Olympia
March 9, 1999	12:00 noon	Room 402 General Administration Building 11th and Columbia Street Olympia
April 13, 1999	12:00 noon	2nd Floor Conference Room Pointe Plaza 6825 Capitol Boulevard Tumwater
May 11, 1999	12:00 noon	2nd Floor Conference Room Pointe Plaza 6825 Capitol Boulevard Tumwater
June 8, 1999	12:00 noon	2nd Floor Conference Room Pointe Plaza 6825 Capitol Boulevard Tumwater
July 13, 1999	12:00 noon	2nd Floor Conference Room Pointe Plaza 6825 Capitol Boulevard Tumwater
August 10, 1999	12:00 noon	2nd Floor Conference Room Pointe Plaza 6825 Capitol Boulevard Tumwater
September 14, 1999	12:00 noon	2nd Floor Conference Room Pointe Plaza 6825 Capitol Boulevard Tumwater
October 12, 1999	12:00 noon	2nd Floor Conference Room Pointe Plaza 6825 Capitol Boulevard Tumwater

If you have any questions regarding these meetings, please call (360) 902-0662.

MISC.

WSR 99-03-035**NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY**

[Memorandum—January 11, 1999]

Notification of Special Board of Trustees Meeting

Note: The board of trustees will meet by conference call on Tuesday, January 12, 1999. This conference call will be an executive session to discuss litigation or potential litigation with legal counsel.

Note: The board of trustees meeting scheduled for Friday, January 22, 1999, and scheduled thereafter, will begin at 10:00 a.m. in the Pence Union Building, Room 263, 265, and 267. The board of trustees meeting change will allow for board of trustees members to attend various committee meetings prior to the board meeting. This will allow full utilization of the board members' day at Eastern, especially for those coming from out of town.

Note: Per the December 4, 1998, meeting, the May 28, 1999, meeting has been rescheduled for May 21, 1999.

WSR 99-03-036**RULES COORDINATOR
INSURANCE COMMISSIONER'S OFFICE**

[Filed January 14, 1999, 3:12 p.m.]

Jon Hedegard, rules coordinator for the Office of the Insurance Commissioner, has moved. His new address is P.O. Box 40255, Olympia, WA 98504-0255, phone (360) 664-4629, fax (360) 664-2782.

WSR 99-03-039**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed January 14, 1999, 3:39 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: CN 177.

Subject: Most Wanted Internet Site.

Effective Date: January 11, 1999.

Document Description: This notice informs staff how to refer child support cases that meet certain criteria to DCS headquarters for posting of pictures and information to a public internet site.

To receive a copy of the interpretive or policy statement, contact Rene' Bressieux, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5226, TDD (360) 753-9122, fax (360) 586-3274, e-mail rbressie@dshs.wa.gov.

January 8, 1999

Rene' Bressieux

WSR 99-03-047**NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION**

(Community Outdoor Athletic Field Advisory Council)

[Memorandum—January 14, 1999]

Following is the notice of meetings of the Community Outdoor Athletic Field Advisory Council (COAFAC):

January 20	12:00 - 1:30 p.m. 7:00 - 8:30 p.m.	City Council Chambers 808 West Spokane Falls Boulevard Spokane, WA
January 21	12:00 - 1:30 p.m. 7:00 - 8:30 p.m.	Hal Holmes Community Center 201 North Ruby Ellensburg, WA
January 25	12:00 - 1:30 p.m. 7:00 - 8:30 p.m.	Marshall House, Officers Row 1301 Officers Row Vancouver, WA
January 27	12:00 - 1:30 p.m. 7:00 - 8:30 p.m.	Tukwila Community Center 12424 42nd Avenue South Tukwila, WA

WSR 99-03-048**NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION**

[Memorandum—January 14, 1999]

The Interagency Committee for Outdoor Recreation (IAC) will meet Friday, February 26, beginning at 8:30 a.m. in Room 172 of the Natural Resources Building in Olympia, Washington.

Proposed agenda items include: Adoption of funding guidelines for the national recreational trails program (NRTP) and the youth athletic facilities account (YAFA), revisions to the grant application process, adoption of policies regarding volunteer wages and discussion of the agency's strategic plan.

If you plan to participate or have materials for committee review, please submit information to IAC no later than February 3, 1999. This will allow for distribution to committee members in a timely fashion.

IAC public meetings are held in locations accessible to people with disabilities. Arrangements for individuals with hearing or visual impairments can be provided by contacting IAC by February 3 at (360) 902-3000 or TDD (360) 902-1996.

WSR 99-03-055**POLICY STATEMENT
DEPARTMENT OF HEALTH**

[Filed January 18, 1999, 1:49 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Case Disposition Guidelines D07.04.

Issuing Entity: Health Professions Quality Assurance
Division, Department of Health.

Subject Matter: This revises the current division policy. The policy presents decision criteria for the various approaches utilized in health profession quality assurance and discipline.

Effective Date: December 15, 1998.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations, Health Professions Quality Assurance Division, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

WSR 99-03-056
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed January 18, 1999, 1:51 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Intranet/Internet Access and Use, C05.02.

Issuing Entity: Health Professions Quality Assurance Division, Department of Health (DOH).

Subject Matter: This revises the current division policy. The policy establishes procedures to ensure appropriate use of the DOH Intranet and the Internet by division employees.

Effective Date: December 7, 1998.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations, Health Professions Quality Assurance Division, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

WSR 99-03-057
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed January 18, 1999, 1:52 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Interpretive Statements, Policy Statements, and Declaratory Orders Proposed For Adoption or Issuance By Boards or Commissions, A02.02.

Issuing Entity: Health Professions Quality Assurance Division, Department of Health (DOH).

Subject Matter: This policy establishes procedures for the implementation of RCW 18.130.065 which mandates the secretary of DOH review and coordinate all proposed interpretive statements, policy statements and declaratory orders and to inform the board or commission of the results of the review and provide any comments or suggestions.

Effective Date: December 18, 1998 [1998].

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

WSR 99-03-058

POLICY STATEMENT

DEPARTMENT OF HEALTH

[Filed January 18, 1999, 1:53 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Monitoring of Nurses in Chemical Dependency Cases.

Issuing Entity: Washington State Nursing Care Quality Assurance Commission.

Subject Matter: The Nursing Commission endorses the Washington health professional services (WHPS) program as a means of voluntary monitoring of nurses as an alternative to the discipline process. The Nursing Commission will not order licensees into the WHPS program as a condition of compliance in agreed orders or final orders.

Effective Date: November 13, 1998.

Contact Person: Jeanne Giese, P.O. Box 47864, Olympia, WA 98504-7864, (360) 236-4728.

WSR 99-03-059

POLICY STATEMENT

DEPARTMENT OF HEALTH

[Filed January 18, 1999, 1:54 p.m.]

NOTICE OF ADOPTION OF POLICY

Title of Policies: Alternating Drainfields, Dosing Gravity Drainfield Systems, Gravelless Drainfields, Holding Tank Sewage Systems, Intermittent Sand Filter Systems, Mound Systems, Pressure Distribution, Sand Lined Trench Systems, and Water Conserving On-Site Wastewater Treatment Systems.

Effective Date: Revision April 5, 1999.

Issuing Agency/Division: Department of Health (DOH), Environmental Health Programs, Division of Community Environmental Health.

Description: These policies provide technical assistance, recommended standards and guidance for the use of on-site sewage systems. It addresses performance, application, design, and operation and maintenance. Local health jurisdictions may use these recommended standards in regulating the use of this type of on-site sewage system. Private sector practitioners may use this guidance in the development of sites where sewage treatment and disposal is to be provided with an on-site sewage system.

Contact: Mark Soltman, Division of Community Environmental Health, 7171 Cleanwater Lane, P.O. Box 7826, Olympia, WA 98504-7826, phone (360) 236-3040.

WSR 99-03-060
INTERPRETIVE STATEMENT
DEPARTMENT OF HEALTH
 [Filed January 18, 1999, 1:55 p.m.]

NOTICE OF INTERPRETIVE STATEMENT ADOPTION

Title: Request to clarify RCW 18.22.230(5).

Issuing Entity: Washington State Podiatric Medical Board.

Subject: The board responded to Dr. Mary Crawford's request to clarify RCW 18.22.230(5) as it relates to the issues of (1) whether the statute provides for podiatric residents to participate in all rotations of clinical training and (2) whether the University of Washington must be required to permit podiatric residents to participate in its clinical rotation.

Effective Date: December 11, 1998.

Contact Person: Arlene A. Robertson, Program Manager, Department of Health, Board of Osteopathic Medicine and Surgery, P.O. Box 47866, Olympia, WA 98504-7866, (360) 236-4945.

WSR 99-03-070
NOTICE OF PUBLIC MEETINGS
WALLA WALLA
COMMUNITY COLLEGE
 [Memorandum—January 14, 1999]

The following change made to Walla Walla Community College's board of trustees meeting schedule:

Changed from: January 20, 1999, 9:30 a.m., WWCC Main Campus

Changed to: January 20, 1999, 11:00 a.m., WWCC Main Campus

If you have any questions on this information, please call (509) 527-4274.

WSR 99-03-071
NOTICE OF PUBLIC MEETINGS
CASCADIA COMMUNITY COLLEGE
 [Memorandum—January 14, 1999]

Please note that the meeting of the Cascadia Community College board of trustees scheduled for Monday, February 8, 1999 has been cancelled.

If you have any questions, please contact (425) 398-5536.

WSR 99-03-072
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
 [Memorandum—January 19, 1999]

Eastern Washington University
 BOARD OF TRUSTEES
 January 22, 1999, 10:00 a.m.
 Cheney Campus
 Pence Union Building
 Room 263-65

WSR 99-03-078
DEPARTMENT OF ECOLOGY
 [Filed January 19, 1999, 4:33 p.m.]

**Announcement of Proposed Modification
 of Municipal Stormwater General Permits**

Introduction: The Washington Department of Ecology (ecology) has tentatively decided to modify each of the three municipal stormwater general permits that currently authorize discharges of stormwater from municipal separate storm sewers owned or operated by the following municipalities and state agency:

King County
 City of Seattle
 Snohomish County
 Pierce County
 City of Tacoma
 Washington State Department of Transportation (WSDOT)

Each permit would be modified in the same way. The purpose of the proposed modification is to delay the deadline for submitting updated stormwater management programs for the next permit term. The deadline for submitting updated stormwater management programs will become a requirement of the next permit.

Municipal stormwater permits are developed to meet the requirements of state statute and regulation and the requirements of section 402(p) of the federal Clean Water Act and regulations adopted by the Environmental Protection Agency (EPA) (Title 40 of the Code of Federal Regulations (CFR), Part 122). The federal laws require the entities named above to obtain an NPDES permit to discharge stormwater from a municipal separate storm sewer.

Ecology is taking these actions under authority granted it by the State Water Pollution Control Act, chapter 90.48 RCW. Applicable provisions of that statute include: RCW 90.48.030 Jurisdiction of department; RCW 90.48.162 Waste disposal permits required of counties, municipalities, and public corporations; and RCW 90.48.260 Federal Clean Water Act—Department designated as state agency, authority—Powers, duties, and functions.

Explanation; Purpose: Currently three general permits authorize the discharge of stormwater from municipal sepa-

rate storm sewers, owned or operated by the permittees, to surface and ground waters of the state of Washington. These permits are scheduled to expire on July 5, 2000. Each of these permits requires the named permittees to develop and implement stormwater management programs, during the current permit term. At issue in the permit modification is the deadline for permittees to submit a proposed stormwater management program for the term of the next permit. The modification to the permit would amend Special Condition S10. A.1., and S10. B.8. to delete the requirement to submit the proposed stormwater management program by September 5, 1999. Ecology intends to include the requirement to submit the proposed stormwater management program in the next permit, scheduled for issuance in July 2000 (see the accompanying preliminary notice of intent to issue a new general permit). The permittees will be required to continue implementation of their existing stormwater programs until the new programs are approved.

There are two reasons for the proposed modification:

1) The public should have an opportunity to comment on what should be included in stormwater programs before they are developed. The next permit will include conditions defining stormwater program requirements. The public will have an opportunity to comment on the draft permit before it is issued in July 2000.

2) It is difficult and expensive to develop a new stormwater program. Without established permit requirements defining what is expected in a stormwater management program, a permittee may waste effort developing a program that does not meet subsequent permit requirements.

Permit Modification - Public Comment: Ecology is requesting comments on the draft permit modification. Only the conditions subject to modification are reopened for comments. Ecology will not respond to comments on other conditions of the permits.

Ecology has prepared a fact sheet that contains the complete text of the modification and other background information. Copies of the fact sheet can be obtained by calling Poppy Carre at (360) 407-6401, or on the internet at <http://www.wa.gov/ecology/wq/stormwater/municipal.html>. Copies will also be available at the public hearing.

On March 9, 1999, ecology will hold a public workshop and a public hearing on the proposed permit modification. The purpose of the public workshop is to explain the permit modification, answer questions, and facilitate meaningful testimony during the hearing. The purpose of the hearing is to provide interested parties an opportunity to give formal oral testimony and comments on the draft permit modification.

Workshop - 6:00 p.m.

Public Hearing - 7:00 p.m.

March 9, 1999

Department of Ecology, Headquarters Building

300 Desmond Drive

Lacey, WA

If you wish to comment on the proposed permit modification, you may also send your written comments to Poppy Carre, Water Quality Program, Washington Department of

Ecology, P.O. Box 47696, Olympia, WA 98504-7696, or e-mail at poca461@ecy.wa.gov, or fax (306) [360] 407-6426.

Written comments must be postmarked by March 12, 1999.

If you have any questions, please contact Ann Wessel at (360) 407-6457 or Poppy Carre at (360) 407-6401.

Permit Modification - Final Determination: Ecology intends to issue a final decision on the permit modification on or after March 31, 1999. A final decision to modify these permits will not be made until ecology evaluates all public testimony and written comments received pursuant to this notice. If ecology modifies the permits, a copy of the final decision and the responsiveness summary will be sent to all persons who submitted written comment or gave public testimony. In addition, ecology will publish a notice of the decision in the state register.

Ecology does not discriminate in its services. If you have special accommodation needs, please contact Department of Ecology, (360) 407-6401 (voice) and (360) 407-6006 (TDD).

WSR 99-03-079

DEPARTMENT OF ECOLOGY

[Filed January 19, 1999, 4:34 p.m.]

Preliminary Notice of Intent to Reissue Municipal Stormwater General Permits

The Washington State Department of Ecology (ecology) is in the initial stages of reissuing an NPDES and State Waste Discharge General Permit for the discharges from municipal separate storm sewers.

In July 1995, ecology issued three national pollutant discharge elimination system (NPDES) wastewater discharge general permits to regulate municipal stormwater discharges. These permits require development and implementation of stormwater management programs to reduce the discharge of pollutants to the maximum extent practicable. These permits are scheduled to expire on July 5, 2000.

Ecology is proposing to combine the three existing general permits for the Island/Snohomish, Cedar/Green, and south Puget Sound water quality management areas into a single state-wide general permit. The general permit will apply to all entities required to have permit coverage under current (phase 1) Environmental Protection Agency (EPA) stormwater regulations. This includes cities and unincorporated portions of counties whose populations exceed 100,000. The municipalities and state agency that must renew permit coverage include:

King County

City of Seattle

Snohomish County

Pierce County

City of Tacoma

Washington State Department of Transportation (WSDOT)

Clark County must obtain a permit for the first time.

In accordance with the waste discharge general permit regulation, WAC 173-226-130, the purposes of today's notice are:

1) To request comments as to whether a general permit or individual permits are more appropriate for such discharges.

2) To provide an opportunity for interested or potentially affected parties to submit information on discharges proposed to be covered under the permit. The permit would cover discharges from separate storm sewers owned or operated by the above-named municipalities. Information may be submitted on the characteristics of municipal storm sewer discharges including effluent quantity, quality, and any receiving water impacts. Information may be from an individual discharger or be representative of the category as a whole. Any other relevant information may also be submitted.

Separate Permit for Washington State Department of Transportation (WSDOT): The Washington State Department of Transportation is currently covered under the three general permits for discharges from municipal separate storm sewer systems. In connection with the proposal to combine the three permits into a single permit, ecology is considering the feasibility of issuing a separate permit to cover discharges from municipal separate storm sewers owned or operated by WSDOT and to cover discharges from construction sites owned or operated by WSDOT.

Advisory Committee: Over the next four months ecology will be forming an advisory committee to assist with identifying issues and possible solutions to address in the next municipal stormwater general permit. The committee will consist of a representative from each municipality that must receive a permit and a small group of individuals that represent larger stakeholder groups. If you would like to be considered for membership on this committee, please contact ecology at the address, phone number, or e-mail address listed below to request a nomination form.

Interested Parties List: If you would like to be added to a permit-specific mailing list to receive information and notices related to the development of the draft and final municipal stormwater permit, contact ecology at the address, phone number, or e-mail address listed below.

Public Comment: This is a preliminary notice of ecology's intent to reissue a general municipal stormwater permit. There will be further opportunities to supply information, comments, or testimony. If you have any information or comments to submit at this time, please send them to the Department of Ecology no later than March 31, 1999.

You may send your written comments to Poppy Carre, Water Quality Program, Washington Department of Ecology, P.O. Box 47696, Olympia, WA 98504-7696, or e-mail at poca461@ecy.wa.gov, or fax (360) 407-6427.

If you have any questions, contact Ann Wessel at (360) 407-6457 or Poppy Carre at (360) 407-6401.

Ecology does not discriminate in its services. If you have special accommodation needs, please contact Department of Ecology, (360) 407-6401 (voice) and (360) 407-6006 (TDD).

MISC.



Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

Suffixes:

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- XA = Expedited adoption
- XR = Expedited repeal
- No suffix means permanent action

WAC # Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16- 54-010	AMD-P	99-03-084	16- 89-080	NEW-P	99-03-086	25- 12-170	NEW-P	99-03-098
16- 54-016	AMD-P	99-03-084	16- 89-090	NEW-P	99-03-086	25- 12-180	NEW-P	99-03-098
16- 54-020	AMD-P	99-03-084	16- 89-100	NEW-P	99-03-086	180- 16-221	REP-XR	99-03-001
16- 54-030	AMD-P	99-03-084	16- 89-110	NEW-P	99-03-086	180- 16-222	REP-XR	99-03-001
16- 54-040	AMD-P	99-03-084	16- 89-120	NEW-P	99-03-086	180- 16-226	REP-XR	99-03-001
16- 54-071	AMD-P	99-03-084	16-108	PREP	99-03-045	180- 16-231	REP-XR	99-03-001
16- 54-082	AMD-P	99-03-084	16-322	PREP	99-03-093	180- 16-236	REP-XR	99-03-001
16- 54-101	AMD-P	99-03-084	16-401	PREP	99-03-095	180- 16-238	REP-XR	99-03-001
16- 54-120	AMD-P	99-03-084	16-403	PREP	99-03-108	180- 27-082	NEW-W	99-03-026
16- 54-135	AMD-P	99-03-084	16-461	PREP	99-03-108	180- 27-083	NEW-W	99-03-026
16- 54-150	REP-P	99-03-084	16-462	PREP	99-03-094	196- 24-060	PREP	99-02-073
16- 59	AMD-P	99-03-085	16-470	PREP	99-03-092	196- 24-085	PREP	99-02-071
16- 59-001	AMD-P	99-03-085	16-470-900	PREP	99-03-096	196- 24-090	PREP	99-02-075
16- 59-010	AMD-P	99-03-085	16-470-905	PREP	99-03-096	196- 24-092	PREP	99-02-076
16- 59-020	AMD-P	99-03-085	16-470-910	PREP	99-03-096	196- 24-095	PREP	99-02-077
16- 59-030	AMD-P	99-03-085	16-470-915	PREP	99-03-096	196- 24-097	PREP	99-02-078
16- 59-060	AMD-P	99-03-085	16-470-920	PREP	99-03-096	196- 24-098	PREP	99-02-079
16- 59-070	REP-P	99-03-085	16-481	PREP	99-03-090	196- 24-100	PREP	99-02-072
16- 86	AMD-P	99-03-087	16-483	PREP	99-03-091	196- 25-040	PREP	99-02-074
16- 86-005	AMD-P	99-03-087	16-532-020	AMD-P	99-02-063	196- 26-020	PREP	99-02-070
16- 86-015	AMD-P	99-03-087	16-545-010	NEW	99-02-064	204- 80-020	AMD	99-02-045
16- 86-017	AMD-P	99-03-087	16-545-015	NEW	99-02-064	208-464-010	REP	99-03-009
16- 86-020	AMD-P	99-03-087	16-545-020	NEW	99-02-064	208-464-020	REP	99-03-009
16- 86-030	AMD-P	99-03-087	16-545-030	NEW	99-02-064	208-464-030	REP	99-03-009
16- 86-040	AMD-P	99-03-087	16-545-040	NEW	99-02-064	208-464-040	REP	99-03-009
16- 86-055	AMD-P	99-03-087	16-545-041	NEW	99-02-064	208-464-050	REP	99-03-009
16- 86-060	AMD-P	99-03-087	16-545-050	NEW	99-02-064	208-464-060	REP	99-03-009
16- 86-070	AMD-P	99-03-087	16-545-080	NEW	99-02-064	208-464-070	REP	99-03-009
16- 86-080	AMD-P	99-03-087	16-645-005	NEW-P	99-02-066	208-464-080	REP	99-03-009
16- 86-090	AMD-P	99-03-087	16-645-010	NEW-P	99-02-066	208-464-090	REP	99-03-009
16- 86-092	AMD-P	99-03-087	25- 12-010	REP-P	99-03-098	208-480-010	REP	99-03-009
16- 86-093	REP-P	99-03-087	25- 12-020	REP-P	99-03-098	208-480-020	REP	99-03-009
16- 86-095	AMD-P	99-03-087	25- 12-030	REP-P	99-03-098	208-480-030	REP	99-03-009
16- 86-100	REP-P	99-03-087	25- 12-040	REP-P	99-03-098	208-480-040	REP	99-03-009
16- 89-005	NEW-P	99-03-086	25- 12-050	REP-P	99-03-098	208-480-050	REP	99-03-009
16- 89-010	NEW-P	99-03-086	25- 12-060	REP-P	99-03-098	208-480-060	REP	99-03-009
16- 89-015	NEW-P	99-03-086	25- 12-070	REP-P	99-03-098	208-480-070	REP	99-03-009
16- 89-020	NEW-P	99-03-086	25- 12-110	NEW-P	99-03-098	220- 44-08000A	NEW-E	99-03-008
16- 89-030	NEW-P	99-03-086	25- 12-120	NEW-P	99-03-098	220- 52-07300J	REP-E	99-03-054
16- 89-040	NEW-P	99-03-086	25- 12-130	NEW-P	99-03-098	220- 52-07300K	NEW-E	99-03-054
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16- 89-060	NEW-P	99-03-086	25- 12-150	NEW-P	99-03-098	220- 55-005	AMD	99-03-029
16- 89-070	NEW-P	99-03-086	25- 12-160	NEW-P	99-03-098	220- 55-010	AMD	99-03-029



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